

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32711 .....	15:1991.	Oct. 20, 1972, Pub. L. 92-513, § 418, 86 Stat. 963; July 14, 1976, Pub. L. 94-364, § 408(1), 90 Stat. 984.

In this section, before clause (1), the words “and then only to the extent of the inconsistency” are omitted as surplus. In clause (1), the word “affect” is substituted for “annul, alter, or affect” to eliminate unnecessary words. In clause (2), the words “subject to the provisions of this subchapter” are omitted as surplus.

### CHAPTER 329—AUTOMOBILE FUEL ECONOMY

Sec.	
32901.	Definitions.
32902.	Average fuel economy standards.
32903.	Credits for exceeding average fuel economy standards.
32904.	Calculation of average fuel economy.
32905.	Manufacturing incentives for alternative fuel automobiles.
32906.	Maximum fuel economy increase for alternative fuel automobiles.
32907.	Reports and tests of manufacturers.
32908.	Fuel economy information.
32909.	Judicial review of regulations.
32910.	Administrative.
32911.	Compliance.
32912.	Civil penalties.
32913.	Compromising and remitting civil penalties.
32914.	Collecting civil penalties.
32915.	Appealing civil penalties.
32916.	Reports to Congress.
32917.	Standards for executive agency automobiles.
32918.	Retrofit devices.
32919.	Preemption.

## AMENDMENTS

1994—Pub. L. 103-429, § 6(43)(C), Oct. 31, 1994, 108 Stat. 4383, added items 32918 and 32919 and struck out former item 32918 “Preemption”.

#### § 32901. Definitions

(a) GENERAL.—In this chapter—

(1) “alternative fuel” means—

- (A) methanol;
- (B) denatured ethanol;
- (C) other alcohols;

(D) except as provided in subsection (b) of this section, a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;

- (E) natural gas;
- (F) liquefied petroleum gas;
- (G) hydrogen;
- (H) coal derived liquid fuels;

(I) fuels (except alcohol) derived from biological materials;

(J) electricity (including electricity from solar energy); and

(K) any other fuel the Secretary of Transportation prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits.

(2) “alternative fueled automobile” means an automobile that is a—

- (A) dedicated automobile; or
- (B) dual fueled automobile.

(3) except as provided in section 32908 of this title, “automobile” means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways and rated at less than 10,000 pounds gross vehicle weight, except—

(A) a vehicle operated only on a rail line;

(B) a vehicle manufactured in different stages by 2 or more manufacturers, if no intermediate or final-stage manufacturer of that vehicle manufactures more than 10,000 multi-stage vehicles per year; or

(C) a work truck.

(4) “automobile manufactured by a manufacturer” includes every automobile manufactured by a person that controls, is controlled by, or is under common control with the manufacturer, but does not include an automobile manufactured by the person that is exported not later than 30 days after the end of the model year in which the automobile is manufactured.

(5) “average fuel economy” means average fuel economy determined under section 32904 of this title.

(6) “average fuel economy standard” means a performance standard specifying a minimum level of average fuel economy applicable to a manufacturer in a model year.

(7) “commercial medium- and heavy-duty on-highway vehicle” means an on-highway vehicle with a gross vehicle weight rating of 10,000 pounds or more.

(8) “dedicated automobile” means an automobile that operates only on alternative fuel.

(9) “dual fueled automobile” means an automobile that—

(A) is capable of operating on alternative fuel or a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 20 percent biodiesel (commonly known as “B20”) and on gasoline or diesel fuel;

(B) provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the United States Government, when operating on alternative fuel as when operating on gasoline or diesel fuel;

(C) for model years 1993-1995 for an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel and if the Administrator of the Environmental Protection Agency decides to extend the application of this subclause, for an additional period ending not later than the end of the last model year to which section 32905(b) and (d) of this title applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Government, when operating on a mixture of alternative fuel and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as when operating on gasoline or diesel fuel; and

(D) for a passenger automobile, meets or exceeds the minimum driving range prescribed under subsection (c) of this section.

(10) “fuel” means—

- (A) gasoline;
- (B) diesel oil; or

(C) other liquid or gaseous fuel that the Secretary decides by regulation to include in this definition as consistent with the need of the United States to conserve energy.

(11) “fuel economy” means the average number of miles traveled by an automobile for each gallon of gasoline (or equivalent amount of other fuel) used, as determined by the Administrator under section 32904(c) of this title.

(12) “import” means to import into the customs territory of the United States.

(13) “manufacture” (except under section 32902(d) of this title) means to produce or assemble in the customs territory of the United States or to import.

(14) “manufacturer” means—

(A) a person engaged in the business of manufacturing automobiles, including a predecessor or successor of the person to the extent provided under regulations prescribed by the Secretary; and

(B) if more than one person is the manufacturer of an automobile, the person specified under regulations prescribed by the Secretary.

(15) “model” means a class of automobiles as decided by regulation by the Administrator after consulting and coordinating with the Secretary.

(16) “model year”, when referring to a specific calendar year, means—

(A) the annual production period of a manufacturer, as decided by the Administrator, that includes January 1 of that calendar year; or

(B) that calendar year if the manufacturer does not have an annual production period.

(17) “non-passenger automobile” means an automobile that is not a passenger automobile or a work truck.

(18) “passenger automobile” means an automobile that the Secretary decides by regulation is manufactured primarily for transporting not more than 10 individuals, but does not include an automobile capable of off-highway operation that the Secretary decides by regulation—

(A) has a significant feature (except 4-wheel drive) designed for off-highway operation; and

(B) is a 4-wheel drive automobile or is rated at more than 6,000 pounds gross vehicle weight.

(19) “work truck” means a vehicle that—

(A) is rated at between 8,500 and 10,000 pounds gross vehicle weight; and

(B) is not a medium-duty passenger vehicle (as defined in section 86.1803-01 of title 40, Code of Federal Regulations, as in effect on the date of the enactment of the Ten-in-Ten Fuel Economy Act).

(b) **AUTHORITY TO CHANGE PERCENTAGE.**—The Secretary may prescribe regulations changing the percentage referred to in subsection (a)(1)(D) of this section to not less than 70 percent because of requirements relating to cold start, safety, or vehicle functions.

(c) **MINIMUM DRIVING RANGES FOR DUAL FUELED PASSENGER AUTOMOBILES.**—(1) The Secretary shall prescribe by regulation the minimum driving range that dual fueled automobiles that are passenger automobiles must meet when operating on alternative fuel to be dual fueled automobiles under sections 32905 and 32906 of this title. A determination whether a dual fueled automobile meets the minimum driving range requirement under this paragraph shall be based on the combined Agency city/highway fuel economy as determined for average fuel economy purposes for those automobiles.

(2)(A) The Secretary may prescribe a lower range for a specific model than that prescribed under paragraph (1) of this subsection. A manufacturer may petition for a lower range than that prescribed under paragraph (1) for a specific model.

(B) The minimum driving range prescribed for dual fueled automobiles (except electric automobiles) under subparagraph (A) of this paragraph or paragraph (1) of this subsection must be at least 200 miles.

(C) If the Secretary prescribes a minimum driving range of 200 miles for dual fueled automobiles (except electric automobiles) under paragraph (1) of this subsection, subparagraph (A) of this paragraph does not apply to dual fueled automobiles (except electric automobiles).

(3) In prescribing a minimum driving range under paragraph (1) of this subsection and in taking an action under paragraph (2) of this subsection, the Secretary shall consider the purpose set forth in section 3 of the Alternative Motor Fuels Act of 1988 (Public Law 100-494, 102 Stat. 2442), consumer acceptability, economic practicability, technology, environmental impact, safety, drivability, performance, and other factors the Secretary considers relevant.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1056; Pub. L. 110-140, title I, §103(a), Dec. 19, 2007, 121 Stat. 1501.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32901(a)(1) ...	15:2013(h)(1)(A) (less words in 1st parentheses).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §513(h); added Oct. 14, 1988, Pub. L. 100-494, §6(a), 102 Stat. 2450; Oct. 24, 1992, Pub. L. 102-486, §403(5)(H), (I), 106 Stat. 2878.
32901(a)(2) ...	15:2013(h)(1)(B).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §501(1); added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 901; Oct. 14, 1988, Pub. L. 100-494, §6(b), 102 Stat. 2452; Oct. 24, 1992, Pub. L. 102-486, §403(1), 106 Stat. 2876.
32901(a)(3) ...	15:2001(1).	
	15:2001(13), (14).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §§501(2)-(7), (10)-(14), 503(c); added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 901, 902, 907.
32901(a)(4) ...	15:2003(c).	
32901(a)(5) ...	15:2001(4).	
32901(a)(6) ...	15:2001(7).	
32901(a)(7) ...	15:2013(h)(1)(C).	
32901(a)(8) ...	15:2001(h)(1)(D).	
32901(a)(9) ...	15:2001(5).	
32901(a)(10) ..	15:2001(6).	
32901(a)(11) ..	15:2001(10).	

## HISTORICAL AND REVISION NOTES—CONTINUED

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32901(a)(12) ..	15:2001(9).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, § 501(8), (9); added Dec. 22, 1975, Pub. L. 94-163, § 301, 89 Stat. 902; Oct. 10, 1980, Pub. L. 96-425, §§ 4(c)(1), 8(b), 94 Stat. 1824, 1828.
32901(a)(13) ..	15:2001(8).	
32901(a)(14) ..	15:2001(11).	
32901(a)(15) ..	15:2001(12).	
32901(a)(16) ..	15:2001(2), (3).	
32901(b) .....	15:2013(h)(1)(A) (words in 1st parentheses).	
32901(c)(1) ...	15:2013(h)(2)(A).	
32901(c)(2) ...	15:2013(h)(2)(B), (C).	
32901(c)(3) ...	15:2013(h)(2)(D).	

In this chapter, the word “model” is substituted for “model type” for consistency in this part.

In subsection (a)(3), before clause (A), the words “except as provided in section 32908 of this title” are added for clarity. The word “line” is added for consistency in the revised title and with other titles of the United States Code. The words “or rails” are omitted because of 1:1. The text of 15:2001(1) (last sentence) is omitted because of 49:322(a). The text of 15:2001(13) and (14) is omitted as surplus because the complete names of the Secretary of Transportation and Administrator of the Environmental Protection Agency are used the first time the terms appear in a section. The text of 15:2001 (related to 15:2011) is omitted because 15:2011 is outside the scope of the restatement. See section 4(c) of the bill.

In subsection (a)(4), the words “‘automobile manufactured by a manufacturer’ includes” are substituted for “Any reference in this subchapter to automobiles manufactured by a manufacturer shall be deemed—(1) to include” to eliminate unnecessary words. The word “every” is substituted for “all” because of the restatement. The words “but does not include” are substituted for “to exclude” for consistency. The words “manufactured by the person” are substituted for “manufactured (within the meaning of paragraph (1))” to eliminate unnecessary words.

In subsection (a)(10), the words “in accordance with procedures established” are omitted as surplus.

In subsection (a)(14), the word “particular” is omitted as surplus.

Subsection (a)(15)(B) is substituted for “If a manufacturer has no annual production period, the term ‘model year’ means the calendar year” to eliminate unnecessary words.

In subsection (a)(16), before clause (A), the words “but does not include an automobile capable of off-highway operation that” are substituted for “(other than an automobile capable of off-highway operation)” and “The term ‘automobile capable of off-highway operation’ means any automobile which” to eliminate unnecessary words.

In subsection (b), the words “The Secretary may prescribe regulations changing the percentage . . . to not less than 70 percent because of” are substituted for “but not less than 70 percent, as determined by the Secretary, by rule, to provide for” for clarity and because of the restatement.

In subsection (c)(1), the words “For purposes of the definitions in paragraph (1)(D)” are omitted as unnecessary because of the restatement. The words “within 18 months after October 14, 1988” are omitted as obsolete. The words “prescribe by regulation” are substituted for “establish by rule of general applicability” for clarity and consistency in the revised title and with other titles of the United States Code and because “rule” is synonymous with “regulation”. The words “that are passenger automobiles” are substituted for “The rule issued under this subparagraph shall apply only to dual fueled automobiles that are passenger automobiles” to eliminate unnecessary words.

## REFERENCES IN TEXT

The date of the enactment of the Ten-in-Ten Fuel Economy Act, referred to in subsec. (a)(19)(B), is the date of enactment of subtitle A (§§ 101–113) of title I of Pub. L. 110–140, which was approved Dec. 19, 2007.

Section 3 of the Alternative Motor Fuels Act of 1988, referred to in subsec. (c)(3), is section 3 of Pub. L. 100–494, which is set out as a note under section 6374 of Title 42, The Public Health and Welfare.

## AMENDMENTS

2007—Subsec. (a)(3). Pub. L. 110–140, § 103(a)(1), added par. (3) and struck out former par. (3) which read as follows: “except as provided in section 32908 of this title, ‘automobile’ means a 4-wheeled vehicle that is propelled by fuel, or by alternative fuel, manufactured primarily for use on public streets, roads, and highways (except a vehicle operated only on a rail line), and rated at—

“(A) not more than 6,000 pounds gross vehicle weight; or

“(B) more than 6,000, but less than 10,000, pounds gross vehicle weight, if the Secretary decides by regulation that—

“(i) an average fuel economy standard under this chapter for the vehicle is feasible; and

“(ii) an average fuel economy standard under this chapter for the vehicle will result in significant energy conservation or the vehicle is substantially used for the same purposes as a vehicle rated at not more than 6,000 pounds gross vehicle weight.”

Subsec. (a)(7), (8). Pub. L. 110–140, § 103(a)(2), (3), added par. (7) and redesignated former par. (7) as (8). Former par. (8) redesignated (9).

Subsec. (a)(9). Pub. L. 110–140, § 103(a)(2), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Subsec. (a)(9)(A). Pub. L. 110–140, § 103(a)(4), inserted “or a mixture of biodiesel and diesel fuel meeting the standard established by the American Society for Testing and Materials or under section 211(u) of the Clean Air Act (42 U.S.C. 7545(u)) for fuel containing 20 percent biodiesel (commonly known as ‘B20’) after ‘alternative fuel’.

Subsec. (a)(10) to (16). Pub. L. 110–140, § 103(a)(2), redesignated pars. (9) to (15) as (10) to (16), respectively. Former par. (16) redesignated (17).

Subsec. (a)(17). Pub. L. 110–140, § 103(a)(6), added par. (17). Former par. (17) redesignated (18).

Pub. L. 110–140, § 103(a)(2), redesignated par. (16) as (17).

Subsec. (a)(18). Pub. L. 110–140, § 103(a)(5), redesignated par. (17) as (18).

Subsec. (a)(19). Pub. L. 110–140, § 103(a)(7), added par. (19).

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## CONSUMER ASSISTANCE TO RECYCLE AND SAVE

Pub. L. 111–32, title XIII, June 24, 2009, 123 Stat. 1909, as amended by Pub. L. 111–47, Aug. 7, 2009, 123 Stat. 1972, provided that:

“SEC. 1301. SHORT TITLE.—This title may be cited as the ‘Consumer Assistance to Recycle and Save Act of 2009’.

“SEC. 1302. CONSUMER ASSISTANCE TO RECYCLE AND SAVE PROGRAM.—(a) ESTABLISHMENT.—There is established in the National Highway Traffic Safety Administration a voluntary program to be known as the ‘Consumer Assistance to Recycle and Save Program’ through which the Secretary, in accordance with this section and the regulations promulgated under subsection (d), shall—

“(1) authorize the issuance of an electronic voucher, subject to the specifications set forth in subsection (c), to offset the purchase price or lease price

for a qualifying lease of a new fuel efficient automobile upon the surrender of an eligible trade-in vehicle to a dealer participating in the Program;

“(2) register dealers for participation in the Program and require that all registered dealers—

“(A) accept vouchers as provided in this section as partial payment or down payment for the purchase or qualifying lease of any new fuel efficient automobile offered for sale or lease by that dealer; and

“(B) in accordance with subsection (c)(2), to transfer each eligible trade-in vehicle surrendered to the dealer under the Program to an entity for disposal;

“(3) in consultation with the Secretary of the Treasury, make electronic payments to dealers for eligible transactions by such dealers, in accordance with the regulations issued under subsection (d); and

“(4) in consultation with the Secretary of the Treasury and the Inspector General of the Department of Transportation, establish and provide for the enforcement of measures to prevent and penalize fraud under the program.

“(b) **QUALIFICATIONS FOR AND VALUE OF VOUCHERS.**—A voucher issued under the Program shall have a value that may be applied to offset the purchase price or lease price for a qualifying lease of a new fuel efficient automobile as follows:

“(1) **\$3,500 VALUE.**—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by \$3,500 if—

“(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 4 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

“(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

“(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and—

“(i) the eligible trade-in vehicle is a category 2 truck and the combined fuel economy value of the new fuel efficient automobile is at least 1 mile per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

“(ii) the eligible trade-in vehicle is a category 3 truck of model year 2001 or earlier; or

“(D) the new fuel efficient automobile is a category 3 truck and the eligible trade-in vehicle is a category 3 truck of model year of 2001 or earlier and is of similar size or larger than the new fuel efficient automobile as determined in a manner prescribed by the Secretary.

“(2) **\$4,500 VALUE.**—The voucher may be used to offset the purchase price or lease price of the new fuel efficient automobile by \$4,500 if—

“(A) the new fuel efficient automobile is a passenger automobile and the combined fuel economy value of such automobile is at least 10 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle;

“(B) the new fuel efficient automobile is a category 1 truck and the combined fuel economy value of such truck is at least 5 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle; or

“(C) the new fuel efficient automobile is a category 2 truck that has a combined fuel economy value of at least 15 miles per gallon and the combined fuel economy value of such truck is at least 2 miles per gallon higher than the combined fuel economy value of the eligible trade-in vehicle and the eligible trade-in vehicle is a category 2 truck.

“(c) **PROGRAM SPECIFICATIONS.**—

“(1) **LIMITATIONS.**—

“(A) **GENERAL PERIOD OF ELIGIBILITY.**—A voucher issued under the Program shall be used only in con-

nection with the purchase or qualifying lease of new fuel efficient automobiles that occur between July 1, 2009 and November 1, 2009.

“(B) **NUMBER OF VOUCHERS PER PERSON AND PER TRADE-IN VEHICLE.**—Not more than 1 voucher may be issued for a single person and not more than 1 voucher may be issued for the joint registered owners of a single eligible trade-in vehicle.

“(C) **NO COMBINATION OF VOUCHERS.**—Only 1 voucher issued under the Program may be applied toward the purchase or qualifying lease of a single new fuel efficient automobile.

“(D) **CAP ON FUNDS FOR CATEGORY 3 TRUCKS.**—Not more than 7.5 percent of the total funds made available for the Program shall be used for vouchers for the purchase or qualifying lease of category 3 trucks.

“(E) **COMBINATION WITH OTHER INCENTIVES PERMITTED.**—The availability or use of a Federal, State, or local incentive or a State-issued voucher for the purchase or lease of a new fuel efficient automobile shall not limit the value or issuance of a voucher under the Program to any person otherwise eligible to receive such a voucher.

“(F) **NO ADDITIONAL FEES.**—A dealer participating in the program may not charge a person purchasing or leasing a new fuel efficient automobile any additional fees associated with the use of a voucher under the Program.

“(G) **NUMBER AND AMOUNT.**—The total number and value of vouchers issued under the Program may not exceed the amounts appropriated for such purpose.

“(2) **DISPOSITION OF ELIGIBLE TRADE-IN VEHICLES.**—

“(A) **IN GENERAL.**—For each eligible trade-in vehicle surrendered to a dealer under the Program, the dealer shall certify to the Secretary, in such manner as the Secretary shall prescribe by rule, that the dealer—

“(i) has not and will not sell, lease, exchange, or otherwise dispose of the vehicle for use as an automobile in the United States or in any other country; and

“(ii) will transfer the vehicle (including the engine block), in such manner as the Secretary prescribes, to an entity that will ensure that the vehicle—

“(I) will be crushed or shredded within such period and in such manner as the Secretary prescribes; and

“(II) has not been, and will not be, sold, leased, exchanged, or otherwise disposed of for use as an automobile in the United States or in any other country.

“(B) **SAVINGS PROVISION.**—Nothing in subparagraph (A) may be construed to preclude a person who is responsible for ensuring that the vehicle is crushed or shredded from—

“(i) selling any parts of the disposed vehicle other than the engine block and drive train (unless with respect to the drive train, the transmission, drive shaft, or rear end are sold as separate parts); or

“(ii) retaining the proceeds from such sale.

“(C) **COORDINATION.**—The Secretary shall coordinate with the Attorney General to ensure that the National Motor Vehicle Title Information System and other publicly accessible systems are appropriately updated on a timely basis to reflect the crushing or shredding of vehicles under this section and appropriate reclassification of the vehicles' titles. The commercial market shall also have electronic and commercial access to the vehicle identification numbers of vehicles that have been disposed of on a timely basis.

“(d) **REGULATIONS.**—Notwithstanding the requirements of section 553 of title 5, United States Code, the Secretary shall promulgate final regulations to implement the Program not later than 30 days after the date of the enactment of this Act [June 24, 2009]. Such regulations shall—

“(1) provide for a means of registering dealers for participation in the Program;

“(2) establish procedures for the reimbursement of dealers participating in the Program to be made through electronic transfer of funds for the amount of the vouchers as soon as practicable but no longer than 10 days after the submission of information supporting the eligible transaction, as deemed appropriate by the Secretary;

“(3) require the dealer to use the voucher in addition to any other rebate or discount advertised by the dealer or offered by the manufacturer for the new fuel efficient automobile and prohibit the dealer from using the voucher to offset any such other rebate or discount;

“(4) require dealers to disclose to the person trading in an eligible trade-in vehicle the best estimate of the scrappage value of such vehicle and to permit the dealer to retain \$50 of any amounts paid to the dealer for scrappage of the automobile as payment for any administrative costs to the dealer associated with participation in the Program;

“(5) consistent with subsection (c)(2), establish requirements and procedures for the disposal of eligible trade-in vehicles and provide such information as may be necessary to entities engaged in such disposal to ensure that such vehicles are disposed of in accordance with such requirements and procedures, including—

“(A) requirements for the removal and appropriate disposition of refrigerants, antifreeze, lead products, mercury switches, and such other toxic or hazardous vehicle components prior to the crushing or shredding of an eligible trade-in vehicle, in accordance with rules established by the Secretary in consultation with the Administrator of the Environmental Protection Agency, and in accordance with other applicable Federal or State requirements;

“(B) a mechanism for dealers to certify to the Secretary that each eligible trade-in vehicle will be transferred to an entity that will ensure that the vehicle is disposed of, in accordance with such requirements and procedures, and to submit the vehicle identification numbers of the vehicles disposed of and the new fuel efficient automobile purchased with each voucher;

“(C) a mechanism for obtaining such other certifications as deemed necessary by the Secretary from entities engaged in vehicle disposal; and

“(D) a list of entities to which dealers may transfer eligible trade-in vehicles for disposal; and

“(6) provide for the enforcement of the penalties described in subsection (e).

“(e) ANTI-FRAUD PROVISIONS.—

“(1) VIOLATION.—It shall be unlawful for any person to violate any provision under this section or any regulations issued pursuant to subsection (d) (other than by making a clerical error).

“(2) PENALTIES.—Any person who commits a violation described in paragraph (1) shall be liable to the United States Government for a civil penalty of not more than \$15,000 for each violation. The Secretary shall have the authority to assess and compromise such penalties, and shall have the authority to require from any entity the records and inspections necessary to enforce this program. In determining the amount of the civil penalty, the severity of the violation and the intent and history of the person committing the violation shall be taken into account.

“(f) INFORMATION TO CONSUMERS AND DEALERS.—Not later than 30 days after the date of the enactment of this Act [June 24, 2009], and promptly upon the update of any relevant information, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall make available on an Internet website and through other means determined by the Secretary information about the Program, including—

“(1) how to determine if a vehicle is an eligible trade-in vehicle;

“(2) how to participate in the Program, including how to determine participating dealers; and

“(3) a comprehensive list, by make and model, of new fuel efficient automobiles meeting the requirements of the Program.

Once such information is available, the Secretary shall conduct a public awareness campaign to inform consumers about the Program and where to obtain additional information.

“(g) RECORD KEEPING AND REPORT.—

“(1) DATABASE.—The Secretary shall maintain a database of the vehicle identification numbers of all new fuel efficient vehicles purchased or leased and all eligible trade-in vehicles disposed of under the Program.

“(2) REPORT ON EFFICACY OF THE PROGRAM.—Not later than 60 days after the termination date described in subsection (c)(1)(A), the Secretary shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate describing the efficacy of the Program, including—

“(A) a description of Program results, including—

“(i) the total number and amount of vouchers issued for purchase or lease of new fuel efficient automobiles by manufacturer (including aggregate information concerning the make, model, model year) and category of automobile;

“(ii) aggregate information regarding the make, model, model year, and manufacturing location of vehicles traded in under the Program; and

“(iii) the location of sale or lease;

“(B) an estimate of the overall increase in fuel efficiency in terms of miles per gallon, total annual oil savings, and total annual greenhouse gas reductions, as a result of the Program; and

“(C) an estimate of the overall economic and employment effects of the Program.

“(3) REVIEW OF ADMINISTRATION OF THE PROGRAM BY GOVERNMENT ACCOUNTABILITY OFFICE AND INSPECTOR GENERAL.—Not later than 180 days after the termination date described in subsection (c)(1)(A), the Government Accountability Office and the Inspector General of the Department of Transportation shall submit reports to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate reviewing the administration of the program.

“(h) EXCLUSION OF VOUCHERS FROM INCOME.—

“(1) FOR PURPOSES OF ALL FEDERAL AND STATE PROGRAMS.—A voucher issued under this program or any payment made for such a voucher pursuant to subsection (a)(3) shall not be regarded as income and shall not be regarded as a resource for the month of receipt of the voucher and the following 12 months, for purposes of determining the eligibility of the recipient of the voucher (or the recipient's spouse or other family or household members) for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal or State program.

“(2) FOR PURPOSES OF TAXATION.—A voucher issued under the program or any payment made for such a voucher pursuant to subsection (a)(3) shall not be considered as gross income of the purchaser of a vehicle for purposes of the Internal Revenue Code of 1986 [26 U.S.C. 1 et seq.].

“(i) DEFINITIONS.—As used in this section—

“(1) the term ‘passenger automobile’ means a passenger automobile, as defined in section 32901(a)(18) of title 49, United States Code, that has a combined fuel economy value of at least 22 miles per gallon;

“(2) the term ‘category 1 truck’ means a nonpassenger automobile, as defined in section 32901(a)(17) of title 49, United States Code, that has a combined fuel economy value of at least 18 miles per gallon, except that such term does not include a category 2 truck;

“(3) the term ‘category 2 truck’ means a large van or a large pickup, as categorized by the Secretary

using the method used by the Environmental Protection Agency and described in the report entitled 'Light-Duty Automotive Technology and Fuel Economy Trends: 1975 through 2008';

“(4) the term ‘category 3 truck’ means a work truck, as defined in section 32901(a)(19) of title 49, United States Code;

“(5) the term ‘combined fuel economy value’ means—

“(A) with respect to a new fuel efficient automobile, the number, expressed in miles per gallon, centered below the words ‘Combined Fuel Economy’ on the label required to be affixed or caused to be affixed on a new automobile pursuant to subpart D of part 600 of title 40, Code of Federal Regulations;

“(B) with respect to an eligible trade-in vehicle, the equivalent of the number described in subparagraph (A), and posted under the words ‘Estimated New EPA MPG’ and above the word ‘Combined’ for vehicles of model year 1984 through 2007, or posted under the words ‘New EPA MPG’ and above the word ‘Combined’ for vehicles of model year 2008 or later on the fueleconomy.gov website of the Environmental Protection Agency for the make, model, and year of such vehicle; or

“(C) with respect to an eligible trade-in vehicle manufactured between model years 1978 through 1985, the equivalent of the number described in subparagraph (A) as determined by the Secretary (and posted on the website of the National Highway Traffic Safety Administration) using data maintained by the Environmental Protection Agency for the make, model, and year of such vehicle.

“(6) the term ‘dealer’ means a person licensed by a State who engages in the sale of new automobiles to ultimate purchasers;

“(7) the term ‘eligible trade-in vehicle’ means an automobile or a work truck (as such terms are defined in section 32901(a) of title 49, United States Code) that, at the time it is presented for trade-in under this section—

“(A) is in drivable condition;

“(B) has been continuously insured consistent with the applicable State law and registered to the same owner for a period of not less than 1 year immediately prior to such trade-in;

“(C) was manufactured less than 25 years before the date of the trade-in; and

“(D) in the case of an automobile, has a combined fuel economy value of 18 miles per gallon or less;

“(8) the term ‘new fuel efficient automobile’ means an automobile described in paragraph (1), (2), (3), or (4)—

“(A) the equitable or legal title of which has not been transferred to any person other than the ultimate purchaser;

“(B) that carries a manufacturer’s suggested retail price of \$45,000 or less;

“(C) that—

“(i) in the case of passenger automobiles, category 1 trucks, or category 2 trucks, is certified to applicable standards under section 86.1811-04 of title 40, Code of Federal Regulations; or

“(ii) in the case of category 3 trucks, is certified to the applicable vehicle or engine standards under section 86.1816-08, 86-007-11 [probably means 86.007-11], or 86.008-10 of title 40, Code of Federal Regulations; and

“(D) that has the combined fuel economy value of at least—

“(i) 22 miles per gallon for a passenger automobile;

“(ii) 18 miles per gallon for a category 1 truck; or

“(iii) 15 miles per gallon for a category 2 truck;

“(9) the term ‘Program’ means the Consumer Assistance to Recycle and Save Program established by this section;

“(10) the term ‘qualifying lease’ means a lease of an automobile for a period of not less than 5 years;

“(11) the term ‘scrappage value’ means the amount received by the dealer for a vehicle upon transferring title of such vehicle to the person responsible for ensuring the dismantling and destroying of the vehicle;

“(12) the term ‘Secretary’ means the Secretary of Transportation acting through the National Highway Traffic Safety Administration;

“(13) the term ‘ultimate purchaser’ means, with respect to any new automobile, the first person who in good faith purchases such automobile for purposes other than resale;

“(14) the term ‘vehicle identification number’ means the 17 character number used by the automobile industry to identify individual automobiles; and

“(15) the term ‘voucher’ means an electronic transfer of funds to a dealer based on an eligible transaction under this program.

“(j) APPROPRIATION.—There is hereby appropriated to the Secretary of Transportation \$1,000,000,000, of which up to \$50,000,000 is available for administration, to remain available until expended to carry out this section.”

### § 32902. Average fuel economy standards

(a) PRESCRIPTION OF STANDARDS BY REGULATION.—At least 18 months before the beginning of each model year, the Secretary of Transportation shall prescribe by regulation average fuel economy standards for automobiles manufactured by a manufacturer in that model year. Each standard shall be the maximum feasible average fuel economy level that the Secretary decides the manufacturers can achieve in that model year.

(b) STANDARDS FOR AUTOMOBILES AND CERTAIN OTHER VEHICLES.—

(1) IN GENERAL.—The Secretary of Transportation, after consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall prescribe separate average fuel economy standards for—

(A) passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection;

(B) non-passenger automobiles manufactured by manufacturers in each model year beginning with model year 2011 in accordance with this subsection; and

(C) work trucks and commercial medium-duty or heavy-duty on-highway vehicles in accordance with subsection (k).

(2) FUEL ECONOMY STANDARDS FOR AUTOMOBILES.—

(A) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2011 THROUGH 2020.—The Secretary shall prescribe a separate average fuel economy standard for passenger automobiles and a separate average fuel economy standard for non-passenger automobiles for each model year beginning with model year 2011 to achieve a combined fuel economy average for model year 2020 of at least 35 miles per gallon for the total fleet of passenger and non-passenger automobiles manufactured for sale in the United States for that model year.

(B) AUTOMOBILE FUEL ECONOMY AVERAGE FOR MODEL YEARS 2021 THROUGH 2030.—For model years 2021 through 2030, the average fuel economy required to be attained by each fleet of passenger and non-passenger

automobiles manufactured for sale in the United States shall be the maximum feasible average fuel economy standard for each fleet for that model year.

(C) **PROGRESS TOWARD STANDARD REQUIRED.**—In prescribing average fuel economy standards under subparagraph (A), the Secretary shall prescribe annual fuel economy standard increases that increase the applicable average fuel economy standard ratably beginning with model year 2011 and ending with model year 2020.

(3) **AUTHORITY OF THE SECRETARY.**—The Secretary shall—

(A) prescribe by regulation separate average fuel economy standards for passenger and non-passenger automobiles based on 1 or more vehicle attributes related to fuel economy and express each standard in the form of a mathematical function; and

(B) issue regulations under this title prescribing average fuel economy standards for at least 1, but not more than 5, model years.

(4) **MINIMUM STANDARD.**—In addition to any standard prescribed pursuant to paragraph (3), each manufacturer shall also meet the minimum standard for domestically manufactured passenger automobiles, which shall be the greater of—

(A) 27.5 miles per gallon; or

(B) 92 percent of the average fuel economy projected by the Secretary for the combined domestic and non-domestic passenger automobile fleets manufactured for sale in the United States by all manufacturers in the model year, which projection shall be published in the Federal Register when the standard for that model year is promulgated in accordance with this section.

(c) **AMENDING PASSENGER AUTOMOBILE STANDARDS.**—The Secretary of Transportation may prescribe regulations amending the standard under subsection (b) of this section for a model year to a level that the Secretary decides is the maximum feasible average fuel economy level for that model year. Section 553 of title 5 applies to a proceeding to amend the standard. However, any interested person may make an oral presentation and a transcript shall be taken of that presentation.

(d) **EXEMPTIONS.**—(1) Except as provided in paragraph (3) of this subsection, on application of a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year 2 years before the model year for which the application is made, the Secretary of Transportation may exempt by regulation the manufacturer from a standard under subsection (b) or (c) of this section. An exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year. The Secretary may exempt a manufacturer only if the Secretary—

(A) finds that the applicable standard under those subsections is more stringent than the maximum feasible average fuel economy level that the manufacturer can achieve; and

(B) prescribes by regulation an alternative average fuel economy standard for the pas-

senger automobiles manufactured by the exempted manufacturer that the Secretary decides is the maximum feasible average fuel economy level for the manufacturers to which the alternative standard applies.

(2) An alternative average fuel economy standard the Secretary of Transportation prescribes under paragraph (1)(B) of this subsection may apply to an individually exempted manufacturer, to all automobiles to which this subsection applies, or to classes of passenger automobiles, as defined under regulations of the Secretary, manufactured by exempted manufacturers.

(3) Notwithstanding paragraph (1) of this subsection, an importer registered under section 30141(c) of this title may not be exempted as a manufacturer under paragraph (1) for a motor vehicle that the importer—

(A) imports; or

(B) brings into compliance with applicable motor vehicle safety standards prescribed under chapter 301 of this title for an individual under section 30142 of this title.

(4) The Secretary of Transportation may prescribe the contents of an application for an exemption.

(e) **EMERGENCY VEHICLES.**—(1) In this subsection, “emergency vehicle” means an automobile manufactured primarily for use—

(A) as an ambulance or combination ambulance-hearse;

(B) by the United States Government or a State or local government for law enforcement; or

(C) for other emergency uses prescribed by regulation by the Secretary of Transportation.

(2) A manufacturer may elect to have the fuel economy of an emergency vehicle excluded in applying a fuel economy standard under subsection (a), (b), (c), or (d) of this section. The election is made by providing written notice to the Secretary of Transportation and to the Administrator of the Environmental Protection Agency.

(f) **CONSIDERATIONS ON DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.**—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider technological feasibility, economic practicability, the effect of other motor vehicle standards of the Government on fuel economy, and the need of the United States to conserve energy.

(g) **REQUIREMENTS FOR OTHER AMENDMENTS.**—

(1) The Secretary of Transportation may prescribe regulations amending an average fuel economy standard prescribed under subsection (a) or (d) of this section if the amended standard meets the requirements of subsection (a) or (d), as appropriate.

(2) When the Secretary of Transportation prescribes an amendment under this section that makes an average fuel economy standard more stringent, the Secretary shall prescribe the amendment (and submit the amendment to Congress when required under subsection (c)(2) of this section) at least 18 months before the beginning of the model year to which the amendment applies.

(h) LIMITATIONS.—In carrying out subsections (c), (f), and (g) of this section, the Secretary of Transportation—

(1) may not consider the fuel economy of dedicated automobiles;

(2) shall consider dual fueled automobiles to be operated only on gasoline or diesel fuel; and

(3) may not consider, when prescribing a fuel economy standard, the trading, transferring, or availability of credits under section 32903.

(i) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of Energy in carrying out this section and section 32903 of this title.

(j) SECRETARY OF ENERGY COMMENTS.—(1) Before issuing a notice proposing to prescribe or amend an average fuel economy standard under subsection (a), (c), or (g) of this section, the Secretary of Transportation shall give the Secretary of Energy at least 10 days from the receipt of the notice during which the Secretary of Energy may, if the Secretary of Energy concludes that the proposed standard would adversely affect the conservation goals of the Secretary of Energy, provide written comments to the Secretary of Transportation about the impact of the standard on those goals. To the extent the Secretary of Transportation does not revise a proposed standard to take into account comments of the Secretary of Energy on any adverse impact of the standard, the Secretary of Transportation shall include those comments in the notice.

(2) Before taking final action on a standard or an exemption from a standard under this section, the Secretary of Transportation shall notify the Secretary of Energy and provide the Secretary of Energy a reasonable time to comment.

(k) COMMERCIAL MEDIUM- AND HEAVY-DUTY ON-HIGHWAY VEHICLES AND WORK TRUCKS.—

(1) STUDY.—Not later than 1 year after the National Academy of Sciences publishes the results of its study under section 108 of the Ten-in-Ten Fuel Economy Act, the Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall examine the fuel efficiency of commercial medium- and heavy-duty on-highway vehicles and work trucks and determine—

(A) the appropriate test procedures and methodologies for measuring the fuel efficiency of such vehicles and work trucks;

(B) the appropriate metric for measuring and expressing commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency performance, taking into consideration, among other things, the work performed by such on-highway vehicles and work trucks and types of operations in which they are used;

(C) the range of factors, including, without limitation, design, functionality, use, duty cycle, infrastructure, and total overall energy consumption and operating costs that affect commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency; and

(D) such other factors and conditions that could have an impact on a program to im-

prove commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency.

(2) RULEMAKING.—Not later than 24 months after completion of the study required under paragraph (1), the Secretary, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, by regulation, shall determine in a rulemaking proceeding how to implement a commercial medium- and heavy-duty on-highway vehicle and work truck fuel efficiency improvement program designed to achieve the maximum feasible improvement, and shall adopt and implement appropriate test methods, measurement metrics, fuel economy standards, and compliance and enforcement protocols that are appropriate, cost-effective, and technologically feasible for commercial medium- and heavy-duty on-highway vehicles and work trucks. The Secretary may prescribe separate standards for different classes of vehicles under this subsection.

(3) LEAD-TIME; REGULATORY STABILITY.—The commercial medium- and heavy-duty on-highway vehicle and work truck fuel economy standard adopted pursuant to this subsection shall provide not less than—

(A) 4 full model years of regulatory lead-time; and

(B) 3 full model years of regulatory stability.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1059; Pub. L. 110–140, title I, §§102, 104(b)(1), Dec. 19, 2007, 121 Stat. 1498, 1503.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32902(a) .....	15:2002(b).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(a)(1), (3)–(c), (e) (1st sentence), (f), (h); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 902, 903, 905; Oct. 10, 1980, Pub. L. 96–425, §§3(a)(1), 7, 8(c), 94 Stat. 1821, 1828.
32902(b) .....	15:2002(a)(1), (3).	
32902(c)(1) ..	15:2002(a)(4) (words before 5th comma), (h).	
32902(c)(2) ..	15:2002(a)(4) (words after 5th comma), (5).	
32902(d) .....	15:1397 (note).	Oct. 31, 1988, Pub. L. 100–562, §2(f), 102 Stat. 2825.
32902(e) .....	15:2002(c). 15:2002(g).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(g); added Oct. 10, 1980, Pub. L. 96–425, §7, 94 Stat. 1828.
32902(f) .....	15:2002(e) (1st sentence).	
32902(g) .....	15:2002(f).	
32902(h) .....	15:2002(e) (last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §§502(e) (last sentence), 513(g)(2)(B); added Oct. 14, 1988, Pub. L. 100–494, §6(a), (c), 102 Stat. 2450, 2452; Oct. 24, 1992, Pub. L. 102–486, §403(2), (5)(G)(i)(II), (III), 106 Stat. 2876, 2878.
32902(i) .....	15:2013(g)(2)(B). 15:2002(i) (1st sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(i), (j); added Aug. 4, 1977, Pub. L. 95–91, §305, 91 Stat. 580; Oct. 10, 1980, Pub. L. 96–425, §7, 94 Stat. 1828.
32902(j) .....	15:2002(i) (2d, last sentences), (j).	



In subsection (a), the words “Any standard applicable to a model year under this subsection shall be prescribed” are omitted as surplus. The words “which begins more than 30 months after December 22, 1975” are omitted as executed.

In subsection (b), the text of 15:2002(a)(1) (related to model years before 1985) and (3) is omitted as expired. The words “at least” are omitted as unnecessary because of the source provisions restated in subsection (c) of this section.

In subsection (c)(1), the words “Subject to paragraph (2) of this subsection” are added for clarity. The words “may prescribe regulations amending” are substituted for “may, by rule, amend” for clarity and consistency in the revised title and because “rule” is synonymous with “regulation”. The words “for a model year” are substituted for “for model year 1985, or for any subsequent model year” to eliminate the expired limitation. The reference in 15:2002(h) to 15:2002(d) is omitted because 15:2002(d) is omitted from the revised title as executed. The words “as well as written” are omitted as surplus.

In subsection (c)(2), the words “If an amendment increases the standard . . . or decreases the standard” are substituted for “except that any amendment that has the effect of increasing . . . a standard . . . , or of decreasing . . . a standard” to eliminate unnecessary words. The words “For purposes of considering any modification which is submitted to the Congress under paragraph (4)” are omitted as surplus. The words “are deemed to be” are substituted for “shall be lengthened to” for clarity and consistency.

In subsection (d)(1), before clause (A), the words “Except as provided in paragraph (3) of this subsection” are added because of the restatement. The words “in the model year 2 years before” are substituted for “in the second model year preceding” for clarity. The words “The Secretary may exempt a manufacturer only if the Secretary” are substituted for “Such exemption may only be granted if the Secretary” and “The Secretary may not issue exemptions with respect to a model year unless he” to eliminate unnecessary words. The words “each such standard shall be set at a level which” are omitted as surplus.

In subsection (d)(3), before clause (A), the words “Notwithstanding paragraph (1) of this subsection” are substituted for “Notwithstanding any provision of law authorizing exemptions from energy conservation requirements for manufacturers of fewer than 10,000 motor vehicles” to eliminate unnecessary words. In clause (B), the word “compliance” is substituted for “conformity” for consistency with chapter 301 of the revised title. The words “prescribed under chapter 301 of this title” are substituted for “Federal” for consistency in the revised title.

Subsection (d)(4) is substituted for 15:2002(c)(1) (2d sentence) to eliminate unnecessary words. The text of 15:2002(c)(2) is omitted as expired.

In subsection (e)(1)(B), the words “police or other” are omitted as unnecessary because the authority to prescribe standards includes the authority to amend those standards.

In subsection (g)(1), the words “from time to time” are omitted as unnecessary. The cross-reference to 15:2002(a)(3) is omitted as executed because 15:2002(a)(3) applied to model years 1981–1984.

In subsection (g)(2), the words “that makes” are substituted for “has the effect of making” to eliminate unnecessary words.

In subsection (i), the words “his responsibilities under” are omitted as surplus.

In subsection (j), the reference to 15:2002(d) and the words “or any modification of” are omitted because 15:2002(d) is omitted from the revised title as executed.

In subsection (j)(1), the words “to prescribe or amend” are substituted for “to establish, reduce, or amend” to eliminate unnecessary words. The words “adverse impact” are substituted for “level” for clarity and consistency. The words “those comments” are substituted for “unaccommodated comments” for clarity.

#### REFERENCES IN TEXT

Section 108 of the Ten-in-Ten Fuel Economy Act, referred to in subsec. (k)(1), is section 108 of Pub. L. 110-140, title I, Dec. 19, 2007, 121 Stat. 1505, which is not classified to the Code.

#### AMENDMENTS

2007—Subsec. (a). Pub. L. 110-140, §102(a)(1), in heading, substituted “Prescription of Standards by Regulation” for “Non-Passenger Automobiles”, and, in text, struck out “(except passenger automobiles)” after “for automobiles” and “The Secretary may prescribe separate standards for different classes of automobiles.” at end.

Subsec. (b). Pub. L. 110-140, §102(a)(2), added subsec. (b) and struck out former subsec. (b). Prior to amendment, text of subsec. (b) read as follows: “Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year 1984 shall be 27.5 miles a gallon.”

Subsec. (c). Pub. L. 110-140, §102(a)(3), substituted “The Secretary” for “(1) Subject to paragraph (2) of this subsection, the Secretary” and struck out par. (2) which read as follows: “If an amendment increases the standard above 27.5 miles a gallon or decreases the standard below 26.0 miles a gallon, the Secretary of Transportation shall submit the amendment to Congress. The procedures of section 551 of the Energy Policy and Conservation Act (42 U.S.C. 6421) apply to an amendment, except that the 15 calendar days referred to in section 551(c) and (d) of the Act (42 U.S.C. 6421(c), (d)) are deemed to be 60 calendar days, and the 5 calendar days referred to in section 551(f)(4)(A) of the Act (42 U.S.C. 6421(f)(4)(A)) are deemed to be 20 calendar days. If either House of Congress disapproves the amendment under those procedures, the amendment does not take effect.”

Subsec. (h)(3). Pub. L. 110-140, §104(b)(1), added par. (3).

Subsec. (k). Pub. L. 110-140, §102(b), added subsec. (k).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### CONTINUED APPLICABILITY OF EXISTING STANDARDS

Pub. L. 110-140, title I, §106, Dec. 19, 2007, 121 Stat. 1504, provided that: “Nothing in this subtitle [subtitle A (§§101–113) of title I of Pub. L. 110-140, see Short Title of 2007 Amendment note set out under section 30101 of this title], or the amendments made by this subtitle, shall be construed to affect the application of section 32902 of title 49, United States Code, to passenger automobiles or non-passenger automobiles manufactured before model year 2011.”

#### NATIONAL ACADEMY OF SCIENCES STUDIES

Pub. L. 110-140, title I, §107, Dec. 19, 2007, 121 Stat. 1504, provided that:

“(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act [Dec. 19, 2007], the Secretary of Transportation shall execute an agreement with the National Academy of Sciences to develop a report evaluating vehicle fuel economy standards, including—

“(1) an assessment of automotive technologies and costs to reflect developments since the Academy’s 2002 report evaluating the corporate average fuel economy standards was conducted;

“(2) an analysis of existing and potential technologies that may be used practically to improve automobile and medium-duty and heavy-duty truck fuel economy;

“(3) an analysis of how such technologies may be practically integrated into the automotive and me-

dium-duty and heavy-duty truck manufacturing process; and

“(4) an assessment of how such technologies may be used to meet the new fuel economy standards under chapter 329 of title 49, United States Code, as amended by this subtitle [subtitle A (§§101–113) of title I of Pub. L. 110–140, see Short Title of 2007 Amendment note set out under section 30101 of this title].

“(b) REPORT.—The Academy shall submit the report to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with its findings and recommendations not later than 5 years after the date on which the Secretary executes the agreement with the Academy.

“(c) QUINQUENNIAL UPDATES.—After submitting the initial report, the Academy shall update the report at 5 year intervals thereafter through 2025.”

#### THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007

Memorandum of President of the United States, Jan. 26, 2009, 74 F.R. 4907, provided:

Memorandum for the Secretary of Transportation [and] the Administrator of the National Highway Traffic Safety Administration

In 2007, the Congress passed the Energy Independence and Security Act (EISA). This law mandates that, as part of the Nation's efforts to achieve energy independence, the Secretary of Transportation prescribe annual fuel economy increases for automobiles, beginning with model year 2011, resulting in a combined fuel economy fleet average of at least 35 miles per gallon by model year 2020. On May 2, 2008, the National Highway Traffic Safety Administration (NHTSA) published a Notice of Proposed Rulemaking entitled *Average Fuel Economy Standards, Passenger Cars and Light Trucks; Model Years 2011–2015*, 73 Fed. Reg. 24352. In the notice and comment period, the NHTSA received numerous comments, some of them contending that certain aspects of the proposed rule, including appendices providing for preemption of State laws, were inconsistent with provisions of EISA and the Supreme Court's decision in *Massachusetts v. Environmental Protection Agency*, 549 U.S. 497 (2007).

Federal law requires that the final rule regarding fuel economy standards be adopted at least 18 months before the beginning of the model year (49 U.S.C. 32902(g)(2)). In order for the model year 2011 standards to meet this requirement, the NHTSA must publish the final rule in the Federal Register by March 30, 2009. To date, the NHTSA has not published a final rule.

Therefore, I request that:

(a) in order to comply with the EISA requirement that fuel economy increases begin with model year 2011, you take all measures consistent with law, and in coordination with the Environmental Protection Agency, to publish in the Federal Register by March 30, 2009, a final rule prescribing increased fuel economy for model year 2011;

(b) before promulgating a final rule concerning model years after model year 2011, you consider the appropriate legal factors under the EISA, the comments filed in response to the Notice of Proposed Rulemaking, the relevant technological and scientific considerations, and to the extent feasible, the forthcoming report by the National Academy of Sciences mandated under section 107 of EISA; and

(c) in adopting the final rules in paragraphs (a) and (b) above, you consider whether any provisions regarding preemption are consistent with the EISA, the Supreme Court's decision in *Massachusetts v. EPA* and other relevant provisions of law and the policies underlying them.

This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The Secretary of Transportation is hereby authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

#### § 32903. Credits for exceeding average fuel economy standards

(a) EARNING AND PERIOD FOR APPLYING CREDITS.—When the average fuel economy of passenger automobiles manufactured by a manufacturer in a particular model year exceeds an applicable average fuel economy standard under subsections (a) through (d) of section 32902 (determined by the Secretary of Transportation without regard to credits under this section), the manufacturer earns credits. The credits may be applied to—

(1) any of the 3 consecutive model years immediately before the model year for which the credits are earned; and

(2) to the extent not used under paragraph (1)<sup>1</sup> any of the 5 consecutive model years immediately after the model year for which the credits are earned.

(b) PERIOD OF AVAILABILITY AND PLAN FOR FUTURE CREDITS.—(1) Except as provided in paragraph (2) of this subsection, credits under this section are available to a manufacturer at the end of the model year in which earned.

(2)(A) Before the end of a model year, if a manufacturer has reason to believe that its average fuel economy for passenger automobiles will be less than the applicable standard for that model year, the manufacturer may submit a plan to the Secretary of Transportation demonstrating that the manufacturer will earn sufficient credits under this section within the next 3 model years to allow the manufacturer to meet that standard for the model year involved. Unless the Secretary finds that the manufacturer is unlikely to earn sufficient credits under the plan, the Secretary shall approve the plan. Those credits are available for the model year involved if—

(i) the Secretary approves the plan; and  
(ii) the manufacturer earns those credits as provided by the plan.

(B) If the average fuel economy of a manufacturer is less than the applicable standard under subsections (a) through (d) of section 32902 after applying credits under subsection (a)(1) of this section, the Secretary of Transportation shall notify the manufacturer and give the manufacturer a reasonable time (of at least 60 days) to submit a plan.

(c) DETERMINING NUMBER OF CREDITS.—The number of credits a manufacturer earns under this section equals the product of—

(1) the number of tenths of a mile a gallon by which the average fuel economy of the passenger automobiles manufactured by the manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy standard under subsections (a) through (d) of section 32902; times

(2) the number of passenger automobiles manufactured by the manufacturer during that model year.

(d) APPLYING CREDITS FOR PASSENGER AUTOMOBILES.—The Secretary of Transportation shall apply credits to a model year on the basis of the number of tenths of a mile a gallon by which the

<sup>1</sup> So in original. Probably should be followed by a comma.

manufacturer involved was below the applicable average fuel economy standard for that model year and the number of passenger automobiles manufactured that model year by the manufacturer. Credits applied to a model year are no longer available for another model year. Before applying credits, the Secretary shall give the manufacturer written notice and reasonable opportunity to comment.

(e) **APPLYING CREDITS FOR NON-PASSENGER AUTOMOBILES.**—Credits for a manufacturer of automobiles that are not passenger automobiles are earned and applied to a model year in which the average fuel economy of that class of automobiles is below the applicable average fuel economy standard under section 32902(a) of this title, to the same extent and in the same way as provided in this section for passenger automobiles.

(f) **CREDIT TRADING AMONG MANUFACTURERS.**—

(1) **IN GENERAL.**—The Secretary of Transportation may establish, by regulation, a fuel economy credit trading program to allow manufacturers whose automobiles exceed the average fuel economy standards prescribed under section 32902 to earn credits to be sold to manufacturers whose automobiles fail to achieve the prescribed standards such that the total oil savings associated with manufacturers that exceed the prescribed standards are preserved when trading credits to manufacturers that fail to achieve the prescribed standards.

(2) **LIMITATION.**—The trading of credits by a manufacturer to the category of passenger automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements of section 32902(b)(4), without regard to any trading of credits from other manufacturers.

(g) **CREDIT TRANSFERRING WITHIN A MANUFACTURER'S FLEET.**—

(1) **IN GENERAL.**—The Secretary of Transportation shall establish by regulation a fuel economy credit transferring program to allow any manufacturer whose automobiles exceed any of the average fuel economy standards prescribed under section 32902 to transfer the credits earned under this section and to apply such credits within that manufacturer's fleet to a compliance category of automobiles that fails to achieve the prescribed standards.

(2) **YEARS FOR WHICH USED.**—Credits transferred under this subsection are available to be used in the same model years that the manufacturer could have applied such credits under subsections (a), (b), (d), and (e), as well as for the model year in which the manufacturer earned such credits.

(3) **MAXIMUM INCREASE.**—The maximum increase in any compliance category attributable to transferred credits is—

(A) for model years 2011 through 2013, 1.0 mile per gallon;

(B) for model years 2014 through 2017, 1.5 miles per gallon; and

(C) for model year 2018 and subsequent model years, 2.0 miles per gallon.

(4) **LIMITATION.**—The transfer of credits by a manufacturer to the category of passenger

automobiles manufactured domestically is limited to the extent that the fuel economy level of such automobiles shall comply with the requirements under section 32904(b)(4), without regard to any transfer of credits from other categories of automobiles described in paragraph (6)(B).

(5) **YEARS AVAILABLE.**—A credit may be transferred under this subsection only if it is earned after model year 2010.

(6) **DEFINITIONS.**—In this subsection:

(A) **FLEET.**—The term “fleet” means all automobiles manufactured by a manufacturer in a particular model year.

(B) **COMPLIANCE CATEGORY OF AUTOMOBILES.**—The term “compliance category of automobiles” means any of the following 3 categories of automobiles for which compliance is separately calculated under this chapter:

(i) Passenger automobiles manufactured domestically.

(ii) Passenger automobiles not manufactured domestically.

(iii) Non-passenger automobiles.

(h) **REFUND OF COLLECTED PENALTY.**—When a civil penalty has been collected under this chapter from a manufacturer that has earned credits under this section, the Secretary of the Treasury shall refund to the manufacturer the amount of the penalty to the extent the penalty is attributable to credits available under this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1061; Pub. L. 110–140, title I, §104(a), Dec. 19, 2007, 121 Stat. 1501.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32903(a) .....	15:2002(l)(1)(B), (4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §502(l); added Oct. 10, 1980, Pub. L. 96–425, §6(b), 94 Stat. 1826.
32903(b)(1) ..	15:2002(l)(1)(A).	
32903(b)(2) ..	15:2002(l)(1)(C).	
32903(c) .....	15:2002(l)(1)(D).	
32903(d) .....	15:2002(l)(1)(E).	
32903(e) .....	15:2002(l)(2).	
32903(f) .....	15:2002(l)(3).	

In this section, various forms of the words “apply credits” are substituted for various forms of “credits are available to be taken into account” to be more concise and to make more clear the distinction between when credits are available and to what years they may be applied.

In subsection (a), before clause (1), the text of 15:2002(l)(4) is omitted as surplus because of 49:322(a). The words “any adjustment under subsection (d) of this section” are omitted because 15:2002(d) is omitted from the revised title as executed. The words “calculated under subparagraph (C)” (which apparently should be “calculated under subparagraph (D)”) are omitted as surplus. In clauses (1) and (2), the words “with respect to the average fuel economy of that manufacturer” are omitted as surplus. The words “year for which the credits are earned” are substituted for “year in which such manufacturer exceeds such applicable average fuel economy standard” to eliminate unnecessary words.

Subsection (b)(1) is substituted for 15:2002(l)(1)(A) to eliminate unnecessary words.

In subsection (b)(2)(A) is substituted for 15:2002(l)(1)(C)(i)–(iii) to eliminate unnecessary words.

In subsection (e), the words “as provided in this section for passenger automobiles” are substituted for “as

provided for under paragraph (1)” for clarity. The text of 15:2002(l)(2) (last sentence) is omitted as expired.

#### AMENDMENTS

2007—Subsec. (a). Pub. L. 110-140, §104(a)(1), substituted “subsections (a) through (d) of section 32902” for “section 32902(b)–(d) of this title” in introductory provisions.

Subsec. (a)(2). Pub. L. 110-140, §104(a)(2), substituted “paragraph (1)” for “clause (1) of this subsection,” and “5 consecutive” for “3 consecutive”.

Subsecs. (b)(2)(B), (c)(1). Pub. L. 110-140, §104(a)(1), substituted “subsections (a) through (d) of section 32902” for “section 32902(b)–(d) of this title”.

Subsecs. (f) to (h). Pub. L. 110-140, §104(a)(3), (4), added subsecs. (f) and (g) and redesignated former subsec. (f) as (h).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 32904. Calculation of average fuel economy

(a) **METHOD OF CALCULATION.**—(1) The Administrator of the Environmental Protection Agency shall calculate the average fuel economy of a manufacturer subject to—

(A) section 32902(a) of this title in a way prescribed by the Administrator; and

(B) section 32902(b)–(d) of this title by dividing—

(i) the number of passenger automobiles manufactured by the manufacturer in a model year; by

(ii) the sum of the fractions obtained by dividing the number of passenger automobiles of each model manufactured by the manufacturer in that model year by the fuel economy measured for that model.

(2)(A) In this paragraph, “electric vehicle” means a vehicle powered primarily by an electric motor drawing electrical current from a portable source.

(B) If a manufacturer manufactures an electric vehicle, the Administrator shall include in the calculation of average fuel economy under paragraph (1) of this subsection equivalent petroleum based fuel economy values determined by the Secretary of Energy for various classes of electric vehicles. The Secretary shall review those values each year and determine and propose necessary revisions based on the following factors:

(i) the approximate electrical energy efficiency of the vehicle, considering the kind of vehicle and the mission and weight of the vehicle.

(ii) the national average electrical generation and transmission efficiencies.

(iii) the need of the United States to conserve all forms of energy and the relative scarcity and value to the United States of all fuel used to generate electricity.

(iv) the specific patterns of use of electric vehicles compared to petroleum-fueled vehicles.

(b) **SEPARATE CALCULATIONS FOR PASSENGER AUTOMOBILES MANUFACTURED DOMESTICALLY AND NOT DOMESTICALLY.**—(1)(A) Except as provided in paragraphs (6) and (7) of this subsection, the

Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (5) of this subsection); and

(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (5) of this subsection).

(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter, except for the purposes of section 32903.

(2) In this subsection (except as provided in paragraph (3)), a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year.

(3)(A) In this subsection, a passenger automobile is deemed to be manufactured domestically in a model year, as provided in subparagraph (B) of this paragraph, if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States, Canada, or Mexico, unless the assembly of the automobile is completed in Canada or Mexico and the automobile is imported into the United States more than 30 days after the end of the model year.

(B) Subparagraph (A) of this paragraph applies to automobiles manufactured by a manufacturer and sold in the United States, regardless of the place of assembly, as follows:

(i) A manufacturer that began assembling automobiles in Mexico before model year 1992 may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election.

(ii) For a manufacturer that began assembling automobiles in Mexico after model year 1991, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994, or the model year beginning after the date the manufacturer begins assembling automobiles in Mexico, whichever is later.

(iii) A manufacturer not described in clause (i) or (ii) of this subparagraph that assembles automobiles in the United States or Canada, but not in Mexico, may elect, during the period from January 1, 1997, through January 1, 2004, to have subparagraph (A) of this paragraph apply to all automobiles manufactured by that manufacturer beginning with the model year that begins after the date of the election. However, if the manufacturer begins assembling automobiles in Mexico before making an election under this subparagraph, this clause does not apply, and the manufacturer is subject to clause (ii) of this subparagraph.

(iv) For a manufacturer that does not assemble automobiles in the United States, Canada,

or Mexico, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 1994.

(v) For a manufacturer described in clause (i) or (iii) of this subparagraph that does not make an election within the specified period, subparagraph (A) of this paragraph applies to all automobiles manufactured by that manufacturer beginning with the model year that begins after January 1, 2004.

(C) The Secretary of Transportation shall prescribe reasonable procedures for elections under subparagraph (B) of this paragraph.

(4) In this subsection, the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.

(5)(A) A manufacturer may submit to the Secretary of Transportation for approval a plan, including supporting material, stating the actions and the deadlines for taking the actions, that will ensure that the model or models referred to in subparagraph (B) of this paragraph will be manufactured domestically before the end of the 4th model year covered by the plan. The Secretary promptly shall consider and act on the plan. The Secretary shall approve the plan unless—

(i) the Secretary finds that the plan is inadequate to meet the requirements of this paragraph; or

(ii) the manufacturer previously has submitted a plan approved by the Secretary under this paragraph.

(B) If the plan is approved, the Administrator shall include under paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii) of this subsection, for each of the 4 model years covered by the plan, not more than 150,000 passenger automobiles manufactured by that manufacturer but not qualifying as domestically manufactured if—

(i) the model or models involved previously have not been manufactured domestically;

(ii) at least 50 percent of the cost to the manufacturer of each of the automobiles is attributable to value added in the United States or Canada;

(iii) the automobiles, if their assembly was completed in Canada, are imported into the United States not later than 30 days after the end of the model year; and

(iv) the model or models are manufactured domestically before the end of the 4th model year covered by the plan.

(c) TESTING AND CALCULATION PROCEDURES.—The Administrator shall measure fuel economy for each model and calculate average fuel economy for a manufacturer under testing and calculation procedures prescribed by the Administrator. However, except under section 32908 of this title, the Administrator shall use the same procedures for passenger automobiles the Administrator used for model year 1975 (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures that give comparable results. A measurement of fuel economy or a cal-

culation of average fuel economy (except under section 32908) shall be rounded off to the nearest .1 of a mile a gallon. The Administrator shall decide on the quantity of other fuel that is equivalent to one gallon of gasoline. To the extent practicable, fuel economy tests shall be carried out with emissions tests under section 206 of the Clean Air Act (42 U.S.C. 7525).

(d) EFFECTIVE DATE OF PROCEDURE OR AMENDMENT.—The Administrator shall prescribe a procedure under this section, or an amendment (except a technical or clerical amendment) in a procedure, at least 12 months before the beginning of the model year to which the procedure or amendment applies.

(e) REPORTS AND CONSULTATION.—The Administrator shall report measurements and calculations under this section to the Secretary of Transportation and shall consult and coordinate with the Secretary in carrying out this section.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1062; Pub. L. 103–429, §6(36), Oct. 31, 1994, 108 Stat. 4380; Pub. L. 104–287, §5(63), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 110–140, title I, §§104(b)(2), 113(a), Dec. 19, 2007, 121 Stat. 1503, 1508.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103–272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32904(a)(1) ..	15:2003(a)(1), (2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(a)(1), (2), (d)–(f); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 906, 907.
32904(a)(2) ..	15:2003(a)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(a)(3); added Jan. 7, 1980, Pub. L. 96–185, §18 (related to §503(a)(3) of Motor Vehicle Information and Cost Savings Act), 93 Stat. 1336.
32904(b)(1) ..	15:2003(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(b)(1), (2); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 906; Oct. 10, 1980, Pub. L. 96–425, §§4(c)(2), (3), 8(e), 94 Stat. 1824, 1829.
32904(b)(2) ..	15:2003(b)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(b)(4); added Oct. 10, 1980, Pub. L. 96–425, §4(b), 94 Stat. 1824.
32904(b)(3) ..	15:2003(b)(4).	
32904(b)(4)–(6).	15:2003(b)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §503(b)(3); added Oct. 10, 1980, Pub. L. 96–425, §4(a)(1), 94 Stat. 1822; Nov. 8, 1984, Pub. L. 98–620, §402(18), 98 Stat. 3358.
32904(c) .....	15:2003(d)(1) (1st–3d sentences), (2), (e).	
32904(d) .....	15:2003(d)(3).	
32904(e) .....	15:2003(d)(1) (last sentence), (f).	

In subsection (a)(1), before clause (A), the words “of a manufacturer subject to” are substituted for “for the purposes of” for clarity. In clause (B)(ii), the words “the sum of the fractions obtained by” are substituted for “a sum of terms, each term of which is a fraction created by” to eliminate unnecessary words.

Subsection (a)(2)(A) is substituted for “as defined in section 2012(b)(2) of this title” for clarity.

In subsection (a)(2)(B), before clause (i), the words “the Administrator shall include in the calculation of average fuel economy” are substituted for “the average fuel economy will be calculated . . . to include” for clarity. The text of 15:2003(a)(3)(B) is omitted as executed. The words “determine and propose” are substituted for “propose” for clarity and consistency with the authority of the Secretary under the source provi-

sions. The words “based on the following factors” are substituted for “Determination of these fuel economy values will take into account the following parameters” for clarity and to eliminate unnecessary words. The factors in clauses (i)–(iv) are applied to revisions in fuel economy values for clarity and consistency with the authority of the Secretary under the source provisions. In clause (iv), the words “patterns of use” are substituted for “driving patterns” for clarity.

In subsection (b)(1), before clause (A), the text of 15:2003(b)(2)(A)–(D) is omitted as executed. In clause (A), the words “is imported . . . more than 30 days after” are substituted for “is not imported . . . prior to the expiration of 30 days following” for clarity and for consistency in the revised chapter. The words “The EPA Administrator may prescribe rules for purposes of carrying out this subparagraph” are omitted as surplus because of the authority of the Administrator to prescribe regulations under section 32910(d) of the revised title. The term “regulations” is used in section 32910(d) instead of “rules” for consistency in the revised title and because the terms are synonymous. In clause (B), the words “which is imported by a manufacturer in model year 1978 or any subsequent year, as the case may be, and” are omitted as surplus.

In subsection (b)(2)(A), before clause (i), the words “Except as provided in paragraphs (4) and (5) of this subsection” are added for clarity. The words “the Administrator shall make separate calculations” are substituted for “In calculating average fuel economy . . . the EPA Administrator shall separate the total number of passenger automobiles manufactured by a manufacturer into the following two categories” and “The EPA Administrator shall calculate the average fuel economy of each such separate category” to eliminate unnecessary words. In clauses (i) and (ii), the reference in the parenthetical to paragraph (3) is substituted for the reference in the source to paragraph (3), which apparently should have been a reference to paragraph (4). The text of 15:2003(b)(1)(A) (words in parentheses) and (B) (words in parentheses) is omitted as executed.

Subsection (b)(2)(B) is substituted for 15:2003(b)(1) (words after last comma) because of the restatement.

In subsection (b)(3)(A), before clause (i), the word “deadlines” is substituted for “dates” for clarity. The text of 15:2003(b)(4)(C) is omitted as executed.

In subsection (b)(4)(A), before clause (i), the words “A manufacturer may file with the Secretary of Transportation a petition for an exemption from the requirement of separate calculations under paragraph (2)(A) of this subsection” are substituted for “petition . . . for an exemption from the provisions of paragraph (1) filed by a manufacturer, the Secretary” for clarity.

In subsection (b)(5)(B), the words “judgment of the court under this subparagraph may be reviewed” are substituted for “judgment of the court affirming, remanding, or setting aside, in whole or in part, any such decision shall be final, subject to review” to eliminate unnecessary words.

In subsection (b)(5)(C), the words “Notwithstanding any other provision of law” are omitted as surplus. The words “a petition for” are added for consistency.

In subsection (c), the words “of a model type” and “of a manufacturer” are omitted as surplus. The words “by rule” are omitted as surplus because of the authority of the Administrator to prescribe regulations under section 32910(d) of the revised title. The term “regulations” is used in section 32910(d) instead of “rules” for consistency in the revised title and because the terms are synonymous. The words “However . . . the Administrator shall use the same procedures for passenger automobiles the Administrator used” are substituted for “Procedures so established with respect to passenger automobiles . . . shall be the procedures utilized by the EPA Administrator” for clarity. The words “(in accordance with rules of the EPA Administrator)” are omitted as surplus. The words “fuel economy tests shall be carried out with” are substituted for “Procedures under this subsection . . . shall require that fuel economy tests be conducted in conjunction with” to eliminate unnecessary words.

In subsection (d), the words “The Administrator shall prescribe a procedure under this section, or an amendment . . . at least” are substituted for “Testing and calculation procedures applicable to a model year and any amendment to such procedures . . . shall be promulgated not less than” to eliminate unnecessary words.

In subsection (e), the words “his duties under” are omitted as surplus.

PUB. L. 103–429, § 6(36)(A)

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

PUB. L. 103–429, § 6(36)(B)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32904(b) .....	15:2003(b)(2)(E), (G).	Oct. 20, 1972, Public Law 92–513, § 503(b)(2)(E), (G), as amended Dec. 8, 1993, Pub. L. 103–182, § 371, 107 Stat. 2127.

The text of 49:32904(b)(1) is the text of 49:32904(b)(2), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063), with conforming changes made in the cited cross-references.

The text of subsection (b)(2) is the text of 49:32904(b)(1)(A), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063), with the amendments of the underlying source provisions of 49:32904(b)(1)(A) made by section 371(b)(1) of the North American Free Trade Implementation Act (Public Law 103–182, 107 Stat. 2128). The words “(except as provided in paragraph (3))” are substituted for “Except as provided in subparagraph (G)” because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3).

In subsection (b)(3)(A), the words “is imported . . . more than 30 days after” are substituted for “is not imported . . . prior to the expiration of 30 days following” for clarity and consistency with title 49, United States Code.

In subsection (b)(3)(C), the words “and the EPA Administrator may prescribe rules for purposes of carrying out this subparagraph” are omitted as surplus because of the authority of the Administrator to prescribe regulations under 49:32910(d). The amendment made by section 371(b)(2) of the North American Free Trade Implementation Act (Public Law 103–182, 107 Stat. 2128) is not given effect because the last sentence of section 503(b)(2)(E) of the Motor Vehicle and Cost Savings Act (Public Law 92–513, 86 Stat. 947) was omitted in the restatement of title 49 because of the authority of the Administrator to prescribe regulations under 49:32910(d).

The text of subsection (b)(4) is the text of 49:32904(b)(1)(B), as enacted by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1063).

PUB. L. 103–429, § 6(36)(C), (D)

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

#### AMENDMENTS

2007—Subsec. (b)(1)(B). Pub. L. 110–140, § 104(b)(2), inserted “, except for the purposes of section 32903” before period at end.

Subsec. (b)(6) to (8). Pub. L. 110–140, § 113(a), struck out pars. (6) to (8) which related to exemption from separate calculations requirement, judicial review of denial of petition, and unavailability of section 32903(a) and (b)(2) credits during model year when exemption is effective, respectively.

1996—Subsec. (b)(6)(C). Pub. L. 104–287 substituted “Committee on Commerce” for “Committee on Energy and Commerce”.

1994—Subsec. (b)(1). Pub. L. 103–429, § 6(36)(B), added par. (1) and struck out former par. (1) which read as follows: “In this subsection—

“(A) a passenger automobile is deemed to be manufactured domestically in a model year if at least 75 percent of the cost to the manufacturer is attributable to value added in the United States or Canada, unless the assembly of the automobile is completed in Canada and the automobile is imported into the United States more than 30 days after the end of the model year; and

“(B) the fuel economy of a passenger automobile that is not manufactured domestically is deemed to be equal to the average fuel economy of all passenger automobiles manufactured by the same manufacturer that are not manufactured domestically.”

Subsec. (b)(2). Pub. L. 103–429, §6(36)(B), added par. (2) and struck out former par. (2) which read as follows:

“(2)(A) Except as provided in paragraphs (4) and (5) of this subsection, the Administrator shall make separate calculations under subsection (a)(1)(B) of this section for—

“(i) passenger automobiles manufactured domestically by a manufacturer (or included in this category under paragraph (3) of this subsection); and

“(ii) passenger automobiles not manufactured domestically by that manufacturer (or excluded from this category under paragraph (3) of this subsection).”

“(B) Passenger automobiles described in subparagraph (A)(i) and (ii) of this paragraph are deemed to be manufactured by separate manufacturers under this chapter.”

Subsec. (b)(3), (4). Pub. L. 103–429, §6(36)(B), added pars. (3) and (4). Former pars. (3) and (4) redesignated (5) and (6), respectively.

Subsec. (b)(5). Pub. L. 103–429, §6(36)(A), redesignated par. (3) as (5). Former par. (5) redesignated (7).

Subsec. (b)(5)(B). Pub. L. 103–429, §6(36)(C), substituted “paragraph (1)(A)(i) and exclude under paragraph (1)(A)(ii)” for “paragraph (2)(A)(i) and exclude under paragraph (2)(A)(ii)” in introductory provisions.

Subsec. (b)(6). Pub. L. 103–429, §6(36)(A), redesignated par. (4) as (6). Former par. (6) redesignated (8).

Subsec. (b)(6)(A). Pub. L. 103–429, §6(36)(D), substituted “paragraph (1)(A)” for “paragraph (2)(A)” in introductory provisions.

Subsec. (b)(7), (8). Pub. L. 103–429, §6(36)(A), redesignated pars. (5) and (6) as (7) and (8), respectively.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### EFFECT OF REPEAL ON EXISTING EXEMPTIONS

Pub. L. 110–140, title I, §113(b), (c), Dec. 19, 2007, 121 Stat. 1508, provided that:

“(b) EFFECT OF REPEAL ON EXISTING EXEMPTIONS.—Any exemption granted under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act [Dec. 19, 2007] shall remain in effect subject to its terms through model year 2013.

“(c) ACCRUAL AND USE OF CREDITS.—Any manufacturer holding an exemption under section 32904(b)(6) of title 49, United States Code, prior to the date of the enactment of this Act may accrue and use credits under sections 32903 and 32905 of such title beginning with model year 2011.”

### § 32905. Manufacturing incentives for alternative fuel automobiles

(a) DEDICATED AUTOMOBILES.—Except as provided in subsection (c) of this section or section 32904(a)(2) of this title, for any model of dedicated automobile manufactured by a manufacturer after model year 1992, the fuel economy measured for that model shall be based on the fuel content of the alternative fuel used to operate the automobile. A gallon of a liquid alternative fuel used to operate a dedicated automobile is deemed to contain .15 gallon of fuel.

(b) DUAL FUELED AUTOMOBILES.—Except as provided in subsection (d) of this section or section 32904(a)(2) of this title, for any model of dual fueled automobile manufactured by a manufacturer in model years 1993 through 2019, the Administrator of the Environmental Protection Agency shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy—

(A) measured under subsection (a) when operating the model on alternative fuel; or

(B) measured based on the fuel content of B20 when operating the model on B20, which is deemed to contain 0.15 gallon of fuel.

(c) GASEOUS FUEL DEDICATED AUTOMOBILES.—For any model of gaseous fuel dedicated automobile manufactured by a manufacturer after model year 1992, the Administrator shall measure the fuel economy for that model based on the fuel content of the gaseous fuel used to operate the automobile. One hundred cubic feet of natural gas is deemed to contain .823 gallon equivalent of natural gas. The Secretary of Transportation shall determine the appropriate gallon equivalent of other gaseous fuels. A gallon equivalent of gaseous fuel is deemed to have a fuel content of .15 gallon of fuel.

(d) GASEOUS FUEL DUAL FUELED AUTOMOBILES.—For any model of gaseous fuel dual fueled automobile manufactured by a manufacturer in model years 1993 through 2019, the Administrator shall measure the fuel economy for that model by dividing 1.0 by the sum of—

(1) .5 divided by the fuel economy measured under section 32904(c) of this title when operating the model on gasoline or diesel fuel; and

(2) .5 divided by the fuel economy measured under subsection (c) of this section when operating the model on gaseous fuel.

(e) FUEL ECONOMY CALCULATIONS.—The Administrator shall calculate the manufacturer's average fuel economy under section 32904(a)(1) of this title for each model described under subsections (a)–(d) of this section by using as the denominator the fuel economy measured for each model under subsections (a)–(d).

(f) FUEL ECONOMY INCENTIVE REQUIREMENTS.—In order for any model of dual fueled automobile to be eligible to receive the fuel economy incentives included in section 32906(a) and (b), a label shall be attached to the fuel compartment of each dual fueled automobile of that model, notifying that the vehicle can be operated on an alternative fuel and on gasoline or diesel, with the form of alternative fuel stated on the notice. This requirement applies to dual fueled automobiles manufactured on or after September 1, 2006.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1065; Pub. L. 104–287, §5(63), Oct. 11, 1996, 110 Stat. 3395; Pub. L. 109–58, title VII, §§759, 772(a), Aug. 8, 2005, 119 Stat. 833, 834; Pub. L. 110–140, title I, §109(b), (c), Dec. 19, 2007, 121 Stat. 1506.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32905(a) .....	15:2013(a), (f)(1).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, § 513(a)-(f); added Oct. 14, 1988, Pub. L. 100-494, § 6(a), 102 Stat. 2448; Oct. 24, 1992, Pub. L. 102-486, § 403(5)(A)-(F), 106 Stat. 2876.
32905(b) .....	15:2013(b), (f)(1).	
32905(c) .....	15:2013(c), (f)(1).	
32905(d) .....	15:2013(d), (f)(1).	
32905(e) .....	15:2013(e).	
32905(f) .....	15:2013(f)(2)(B).	
32905(g) .....	15:2013(f)(2)(A).	

In subsections (a) and (c), the words “after model year 1992” are substituted for “Subsections (a) and (c) shall apply only to automobiles manufactured after model year 1992” because of the restatement.

In subsections (b) and (d), before each clause (1), the words “in model years 1993–2004” are substituted for “Except as otherwise provided in this subsection, subsections (b) and (d) shall apply only to automobiles manufactured in model year 1993 through model year 2004” to eliminate unnecessary words and because of the restatement.

In subsection (c), the words “For purposes of this section” and “than natural gas” are omitted as unnecessary because of the restatement. The words “a gallon equivalent of natural gas” are omitted as being included in “A gallon equivalent of any gaseous fuel”.

In subsection (e), the words “subject to the provisions of this section” are omitted as unnecessary because of the restatement. The words “for each model described under subsections (a)–(d) of this section” are substituted for “for each model type of dedicated automobile or dual fueled automobile” to eliminate unnecessary words. The words “by using as the denominator” are substituted for “by including as the denominator of the term” for clarity.

## AMENDMENTS

2007—Subsec. (b). Pub. L. 110-140, § 109(b)(1), substituted “1993 through 2019” for “1993–2010” in introductory provisions.

Subsec. (b)(2). Pub. L. 110-140, § 109(c), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “.5 divided by the fuel economy measured under subsection (a) of this section when operating the model on alternative fuel.”

Subsec. (d). Pub. L. 110-140, § 109(b)(2), substituted “1993 through 2019” for “1993–2010” in introductory provisions.

Subsecs. (f) to (h). Pub. L. 110-140, § 109(b)(3), (4), redesignated subsec. (h) as (f) and struck out former subsecs. (f) and (g) which related to temporary extension of application of subsecs. (b) and (d) and study and report on success of the policy of subsecs. (b) and (d), respectively.

2005—Subsecs. (b), (d). Pub. L. 109-58, § 772(a)(1), substituted “1993–2010” for “1993–2004” in introductory provisions.

Subsec. (f). Pub. L. 109-58, § 772(a)(2), substituted “2007” for “2001” in introductory provisions.

Subsec. (f)(1). Pub. L. 109-58, § 772(a)(3), substituted “2010” for “2004”.

Subsec. (h). Pub. L. 109-58, § 759, added subsec. (h).

1996—Subsec. (g). Pub. L. 104-287 substituted “Committee on Commerce” for “Committee on Energy and Commerce”.

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## § 32906. Maximum fuel economy increase for alternative fuel automobiles

(a) IN GENERAL.—For each of model years 1993 through 2019 for each category of automobile

(except an electric automobile), the maximum increase in average fuel economy for a manufacturer attributable to dual fueled automobiles is—

- (1) 1.2 miles a gallon for each of model years 1993 through 2014;
- (2) 1.0 miles per gallon for model year 2015;
- (3) 0.8 miles per gallon for model year 2016;
- (4) 0.6 miles per gallon for model year 2017;
- (5) 0.4 miles per gallon for model year 2018;
- (6) 0.2 miles per gallon for model year 2019;
- and
- (7) 0 miles per gallon for model years after 2019.

(b) CALCULATION.—In applying subsection (a), the Administrator of the Environmental Protection Agency shall determine the increase in a manufacturer’s average fuel economy attributable to dual fueled automobiles by subtracting from the manufacturer’s average fuel economy calculated under section 32905(e) the number equal to what the manufacturer’s average fuel economy would be if it were calculated by the formula under section 32904(a)(1) by including as the denominator for each model of dual fueled automobiles the fuel economy when the automobiles are operated on gasoline or diesel fuel.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1067; Pub. L. 109-58, title VII, § 772(b), Aug. 8, 2005, 119 Stat. 834; Pub. L. 110-140, title I, § 109(a), Dec. 19, 2007, 121 Stat. 1505.)

## HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32906(a) .....	15:2013(g)(1).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, § 513(g)(1), (2)(A); added Oct. 14, 1988, Pub. L. 100-494, § 6(a), 102 Stat. 2449; Oct. 24, 1992, Pub. L. 102-486, § 403(5)(G)(i), (ii)(I), 106 Stat. 2877.
32906(b) .....	15:2013(g)(2)(A).	

## AMENDMENTS

2007—Pub. L. 110-140 amended section generally, substituting provisions relating to maximum increase in average fuel economy for each of model years 1993 through 2019 and calculation of each such increase for provisions relating to maximum increase for each of model years 1993 through 2010 and authorizing offsets if the Secretary of Transportation reduced the average fuel economy standard for passenger automobiles for any model year below 27.5 miles per gallon.

2005—Subsec. (a)(1)(A). Pub. L. 109-58, § 772(b)(1), substituted “model years 1993–2010” for “the model years 1993–2004”.

Subsec. (a)(1)(B). Pub. L. 109-58, § 772(b)(2), substituted “model years 2011–2014” for “the model years 2005–2008”.

## EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

## § 32907. Reports and tests of manufacturers

(a) MANUFACTURER REPORTS.—(1) A manufacturer shall report to the Secretary of Transportation on—

- (A) whether the manufacturer will comply with an applicable average fuel economy



standard under section 32902 of this title for the model year for which the report is made;

(B) the actions the manufacturer has taken or intends to take to comply with the standard; and

(C) other information the Secretary requires by regulation.

(2) A manufacturer shall submit a report under paragraph (1) of this subsection during the 30 days—

(A) before the beginning of each model year; and

(B) beginning on the 180th day of the model year.

(3) When a manufacturer decides that actions reported under paragraph (1)(B) of this subsection are not sufficient to ensure compliance with that standard, the manufacturer shall report to the Secretary additional actions the manufacturer intends to take to comply with the standard and include a statement about whether those actions are sufficient to ensure compliance.

(4) This subsection does not apply to a manufacturer for a model year for which the manufacturer is subject to an alternative average fuel economy standard under section 32902(d) of this title.

(b) RECORDS, REPORTS, TESTS, INFORMATION, AND INSPECTION.—(1) Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter, a manufacturer shall keep records, make reports, conduct tests, and provide items and information. On request and display of proper credentials, an officer or employee designated by the Secretary or Administrator may inspect automobiles and records of the manufacturer. An inspection shall be made at a reasonable time and in a reasonable way.

(2) The district courts of the United States may—

(A) issue an order enforcing a requirement or request under paragraph (1) of this subsection; and

(B) punish a failure to obey the order as a contempt of court.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1067.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32907(a) .....	15:2005(a)(1)–(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(a)(1)–(3), (c); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 908, 909.
	15:2005(a)(4).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §505(a)(4); added Oct. 10, 1980, Pub. L. 96–425, §3(b), 94 Stat. 1822.
32907(b) .....	15:2005(c).	

In subsection (a)(1), before clause (A), the words “shall report to the Secretary of Transportation on” are substituted for “shall submit a report to the Secretary . . . Each such report shall contain (A) a statement as to” to eliminate unnecessary words. In clause (B), the words “the actions” are substituted for “a plan which describes the steps” to eliminate unnecessary words.

In subsection (a)(2)(A), the words “after model year 1977” are omitted as obsolete.

In subsection (a)(3), the words “actions reported . . . are not sufficient to ensure compliance with that standard” are substituted for “a plan submitted . . . which he stated was sufficient to insure compliance with applicable average fuel economy standards is not sufficient to insure such compliance” to eliminate unnecessary words and for consistency in the section. The words “additional actions” are substituted for “a revised plan which specifies any additional measures” for consistency in the section. The text of 15:2005(a)(3) is omitted as surplus because of 49:322(a).

In subsection (b)(1), the words “Under regulations prescribed by the Secretary or the Administrator of the Environmental Protection Agency to carry out this chapter” are substituted for “as the Secretary or the EPA Administrator may, by rule, reasonably require to enable the Secretary or the EPA Administrator to carry out their duties under this subchapter and under any rules prescribed pursuant to this subchapter” to eliminate unnecessary words, for consistency in the revised title, and because “rules” and “regulations” are synonymous. The words “establish and” are omitted as surplus. The 2d sentence is substituted for 15:2005(c) (2d sentence) to eliminate unnecessary words and for consistency. The text of 15:2005(c)(1) (last sentence) is omitted as surplus because of section 32910(d) of the revised title and 49:322(a).

Subsection (b)(2)(A) is substituted for “if a manufacturer refuses to accede to any rule or reasonable request made under paragraph (1), issue an order requiring compliance with such requirement or request” to eliminate unnecessary words.

Subsection (b)(2)(B) is substituted for 15:2005(c) (last sentence) to eliminate unnecessary words.

#### § 32908. Fuel economy information

(a) DEFINITIONS.—In this section—

(1) “automobile” includes an automobile rated at not more than 8,500 pounds gross vehicle weight regardless of whether the Secretary of Transportation has applied this chapter to the automobile under section 32901(a)(3)(B) of this title.

(2) “dealer” means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and engaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale.

(b) LABELING REQUIREMENTS AND CONTENTS.—

(1) Under regulations of the Administrator of the Environmental Protection Agency, a manufacturer of automobiles shall attach a label to a prominent place on each automobile manufactured in a model year. The dealer shall maintain the label on the automobile. The label shall contain the following information:

(A) the fuel economy of the automobile.

(B) the estimated annual fuel cost of operating the automobile.

(C) the range of fuel economy of comparable automobiles of all manufacturers.

(D) a statement that a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year.

(E) the amount of the automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064).

(F) other information required or authorized by the Administrator that is related to the in-

formation required by clauses (A)–(D) of this paragraph.

(2) The Administrator may allow a manufacturer to comply with this subsection by—

(A) disclosing the information on the label required under section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(B) including the statement required by paragraph (1)(E) of this subsection at a time and in a way that takes into account special circumstances or characteristics.

(3) For dedicated automobiles manufactured after model year 1992, the fuel economy of those automobiles under paragraph (1)(A) of this subsection is the fuel economy for those automobiles when operated on alternative fuel, measured under section 32905(a) or (c) of this title, multiplied by .15. Each label required under paragraph (1) of this subsection for dual fueled automobiles shall—

(A) indicate the fuel economy of the automobile when operated on gasoline or diesel fuel;

(B) clearly identify the automobile as a dual fueled automobile;

(C) clearly identify the fuels on which the automobile may be operated; and

(D) contain a statement informing the consumer that the additional information required by subsection (c)(2) of this section is published and distributed by the Secretary of Energy.

(c) FUEL ECONOMY INFORMATION BOOKLET.—(1) The Administrator shall prepare the booklet referred to in subsection (b)(1)(D) of this section. The booklet—

(A) shall be simple and readily understandable;

(B) shall contain information on fuel economy and estimated annual fuel costs of operating automobiles manufactured in each model year; and

(C) may contain information on geographical or other differences in estimated annual fuel costs.

(2)(A) For dual fueled automobiles manufactured after model year 1992, the booklet published under paragraph (1) shall contain additional information on—

(i) the energy efficiency and cost of operation of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel; and

(ii) the driving range of those automobiles when operated on gasoline or diesel fuel as compared to those automobiles when operated on alternative fuel.

(B) For dual fueled automobiles, the booklet published under paragraph (1) also shall contain—

(i) information on the miles a gallon achieved by the automobiles when operated on alternative fuel; and

(ii) a statement explaining how the information made available under this paragraph can be expected to change when the automobile is operated on mixtures of alternative fuel and gasoline or diesel fuel.

(3) The Secretary of Energy shall publish and distribute the booklet. The Administrator shall prescribe regulations requiring dealers to make the booklet available to prospective buyers.

(d) DISCLOSURE.—A disclosure about fuel economy or estimated annual fuel costs under this section does not establish a warranty under a law of the United States or a State.

(e) VIOLATIONS.—A violation of subsection (b) of this section is—

(1) a violation of section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232); and

(2) an unfair or deceptive act or practice in or affecting commerce under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), except sections 5(m) and 18 (15 U.S.C. 45(m), 57a).

(f) CONSULTATION.—The Administrator shall consult with the Federal Trade Commission and the Secretaries of Transportation and Energy in carrying out this section.

(g) CONSUMER INFORMATION.—

(1) PROGRAM.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a program to require manufacturers—

(A) to label new automobiles sold in the United States with—

(i) information reflecting an automobile's performance on the basis of criteria that the Administrator shall develop, not later than 18 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act, to reflect fuel economy and greenhouse gas and other emissions over the useful life of the automobile;

(ii) a rating system that would make it easy for consumers to compare the fuel economy and greenhouse gas and other emissions of automobiles at the point of purchase, including a designation of automobiles—

(I) with the lowest greenhouse gas emissions over the useful life of the vehicles; and

(II) the highest fuel economy; and

(iii) a permanent and prominent display that an automobile is capable of operating on an alternative fuel; and

(B) to include in the owner's manual for vehicles capable of operating on alternative fuels information that describes that capability and the benefits of using alternative fuels, including the renewable nature and environmental benefits of using alternative fuels.

(2) CONSUMER EDUCATION.—

(A) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and implement by rule a consumer education program to improve consumer understanding of automobile performance described in paragraph (1)(A)(i) and to inform consumers of the benefits of using alter-

native fuel in automobiles and the location of stations with alternative fuel capacity.

(B) FUEL SAVINGS EDUCATION CAMPAIGN.—The Secretary of Transportation shall establish a consumer education campaign on the fuel savings that would be recognized from the purchase of vehicles equipped with thermal management technologies, including energy efficient air conditioning systems and glass.

(3) FUEL TANK LABELS FOR ALTERNATIVE FUEL AUTOMOBILES.—The Secretary of Transportation shall by rule require a label to be attached to the fuel compartment of vehicles capable of operating on alternative fuels, with the form of alternative fuel stated on the label. A label attached in compliance with the requirements of section 32905(h)<sup>1</sup> is deemed to meet the requirements of this paragraph.

(4) RULEMAKING DEADLINE.—The Secretary of Transportation shall issue a final rule under this subsection not later than 42 months after the date of the enactment of the Ten-in-Ten Fuel Economy Act.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1068; Pub. L. 103–429, §6(37), Oct. 31, 1994, 108 Stat. 4382; Pub. L. 110–140, title I, §105, Dec. 19, 2007, 121 Stat. 1503.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32908(a) .....	15:2006(c)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §506(a)(1)–(3), (b)(1), (2), (c)(1), (2), (d), (e); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 910; Nov. 9, 1978, Pub. L. 95–619, §§401(a)(2), 403(a), (b), 92 Stat. 3254, 3256.
	15:2006(c)(3).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §506(c)(3); added Nov. 9, 1978, Pub. L. 95–619, §401(a)(1), 92 Stat. 3254.
32908(b)(1), (2).	15:2006(a)(1)–(3).	
32908(b)(3) ..	15:2006(a)(4).	Oct. 20, 1972, Pub. L. 92–516, 86 Stat. 947, §506(a)(4), (b)(3); added Oct. 14, 1988, Pub. L. 100–494, §8(a), 102 Stat. 2452; Oct. 24, 1992, Pub. L. 102–486, §403(3), (4), 106 Stat. 2876.
	15:2006 (note).	Oct. 14, 1988, Pub. L. 100–494, §8(b), 102 Stat. 2453.
32908(c)(1) ..	15:2006(b)(1) (1st sentence).	
32908(c)(2) ..	15:2006(b)(3).	
	15:2006 (note).	
32908(c)(3) ..	15:2006(b)(1) (last sentence), (2).	
32908(d) .....	15:2006(d).	
32908(e) .....	15:2006(c)(1).	
32908(f) .....	15:2006(e).	

In this section, references to the Secretary of Energy are substituted for references to the Administrator of the Federal Energy Administration because of 42:7151.

In subsection (a)(1), the words “regardless of whether the Secretary of Transportation has applied this chapter to the automobile” are substituted for “notwithstanding any lack of determination required of the Secretary” for consistency with section 32901(b) of the revised title.

In subsection (a)(2), the words “means a person residing or located in a State, the District of Columbia, or a territory or possession of the United States, and en-

gaged in the sale or distribution of new automobiles to the first person (except a dealer buying as a dealer) that buys the automobile in good faith other than for resale” are substituted for “has the same meaning as such term has in section 2(e) of the Automobile Information Disclosure Act (15 U.S.C. 1231(e))” to include the words of 15:1231(e) and (g) in the subsection for clarity. The words “territory or possession” are substituted for “Territory” for consistency in the revised title and with other titles of the United States Code. The words “except that in applying such term to this section, the term ‘automobile’ has the same meaning as such term has in section 2001(1) of this title (taking into account paragraph (3) of this subsection)” are omitted as surplus.

In subsection (b)(1), before clause (A), the text of 15:2006(a)(2) is omitted as executed. The words “Except as otherwise provided in paragraph (2)” are omitted as surplus because 15:2006(a)(2) is executed and is not part of the revised title. The words “Under regulations of the Administrator of the Environmental Protection Agency” are substituted for “as determined in accordance with rules of the EPA Administrator” and the text of 15:2006(a)(3) (1st, 2d sentences) to eliminate unnecessary words, for consistency in the revised title, and because “rules” is synonymous with “regulations”. The word “attach” is substituted for “cause to be affixed”, to eliminate unnecessary words. The words “after model year 1976” are omitted as executed. The words “The label shall contain the following information” are substituted for “indicating” and “containing” for clarity. In clause (C), the words “of all manufacturers” are substituted for “(whether or not manufactured by such manufacturer)” to eliminate unnecessary words. In clause (D), the words “a booklet is available from the dealer to assist in making a comparison of fuel economy of other automobiles manufactured by all manufacturers in that model year” are substituted for “written information (as described in subsection (b)(1) of this section) with respect to the fuel economy of other automobiles manufactured in such model year (whether or not manufactured by such manufacturer) is available from the dealer in order to facilitate comparison among the various model types” to eliminate unnecessary words. In clause (E), the words “automobile fuel efficiency tax imposed on the sale of the automobile under section 4064 of the Internal Revenue Code of 1986 (26 U.S.C. 4064)” are substituted for “in the case of any automobile, the sale of which is subject to any Federal tax imposed with respect to automobile fuel efficiency, a statement indicating the amount of such tax” for clarity.

In subsection (b)(3)(D), the words “Secretary of Energy” are substituted for “Department of Energy” because of 42:7131.

In subsection (c)(1), before clause (A), the words “compile and” are omitted as surplus.

In subsection (c)(3), the words “not later than July 31, 1976” are omitted as executed. The words “make the booklet available to prospective buyers” are substituted for “make available to prospective purchasers information compiled by the EPA Administrator under paragraph (1)” to eliminate unnecessary words.

In subsection (d), the words “which is required to be made”, “an express or implied”, and “that such fuel economy will be achieved, or that such cost will not be exceeded, under conditions of actual use” are omitted as surplus.

In subsection (f), the words “his duties under” are omitted as surplus.

#### PUB. L. 103–429

This amends 49:32908(b)(1) to clarify the restatement of 15:2006(a)(1) by section 1 of the Act of July 5, 1994 (Public Law 103–272, 108 Stat. 1068).

#### REFERENCES IN TEXT

The Federal Trade Commission Act, referred to in subsec. (e)(2), is act Sept. 26, 1914, ch. 311, 38 Stat. 717,

<sup>1</sup> See References in Text note below.

as amended, which is classified generally to subchapter I (§41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The date of the enactment of the Ten-in-Ten Fuel Economy Act, referred to in subsec. (g)(1)(A)(i), (4), is the date of enactment of subtitle A (§§101–113) of title I of Pub. L. 110–140, which was approved Dec. 19, 2007.

Subsection (h) of section 32905 of this title, referred to in subsec. (g)(3), was redesignated (f) by Pub. L. 110–140, title I, §109(b)(4), Dec. 19, 2007, 121 Stat. 1506.

#### AMENDMENTS

2007—Subsec. (g). Pub. L. 110–140 added subsec. (g).

1994—Subsec. (b)(1). Pub. L. 103–429 inserted “on the automobile” after “maintain the label” in introductory provisions.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

#### PERIODIC REVIEW OF ACCURACY OF FUEL ECONOMY LABELING PROCEDURES

Pub. L. 110–140, title I, §110, Dec. 19, 2007, 121 Stat. 1506, provided that: “Beginning in December 2009, and not less often than every 5 years thereafter, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall—

“(1) reevaluate the fuel economy labeling procedures described in the final rule published in the Federal Register on December 27, 2006 (71 Fed. Reg. 77,872; 40 CFR parts 86 and 600) to determine whether changes in the factors used to establish the labeling procedures warrant a revision of that process; and

“(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives that describes the results of the reevaluation process.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–429 effective July 5, 1994, see section 9 of Pub. L. 103–429, set out as a note under section 321 of this title.

### § 32909. Judicial review of regulations

(a) FILING AND VENUE.—(1) A person that may be adversely affected by a regulation prescribed in carrying out any of sections 32901–32904 or 32908 of this title may apply for review of the regulation by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(2) A person adversely affected by a regulation prescribed under section 32912(c)(1) of this title may apply for review of the regulation by filing a petition for review in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business.

(b) TIME FOR FILING AND JUDICIAL PROCEDURES.—The petition must be filed not later than 59 days after the regulation is prescribed, except that a petition for review of a regulation prescribing an amendment of a standard submitted to Congress under section 32902(c)(2) of this title must be filed not later than 59 days after the end of the 60-day period referred to in sec-

tion 32902(c)(2). The clerk of the court shall send immediately a copy of the petition to the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation. The Secretary or the Administrator shall file with the court a record of the proceeding in which the regulation was prescribed.

(c) ADDITIONAL PROCEEDINGS.—(1) When reviewing a regulation under subsection (a)(1) of this section, the court, on request of the petitioner, may order the Secretary or the Administrator to receive additional submissions if the court is satisfied the additional submissions are material and there were reasonable grounds for not presenting the submissions in the proceeding before the Secretary or Administrator.

(2) The Secretary or the Administrator may amend or set aside the regulation, or prescribe a new regulation because of the additional submissions presented. The Secretary or Administrator shall file an amended or new regulation and the additional submissions with the court. The court shall review a changed or new regulation.

(d) SUPREME COURT REVIEW AND ADDITIONAL REMEDIES.—A judgment of a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28. A remedy under subsections (a)(1) and (c) of this section is in addition to any other remedies provided by law.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103–429, §6(38), Oct. 31, 1994, 108 Stat. 4382.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103–272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32909(a)(1) ..	15:2004(a) (1st sentence words before 4th and after 6th commas, last sentence).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §504; added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 908.
32909(a)(2) ..	15:2004(a) (4th sentence).	
	15:2008(e)(3)(A) (1st sentence less 15th–31st words), (B).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(e)(3); added Nov. 9, 1978, Pub. L. 95–619, §402, 92 Stat. 3256.
32909(b) .....	15:2004(a) (1st sentence words between 4th and 6th commas, 2d, 3d sentences).	
	15:2008(e)(3)(A) (1st sentence 15th–31st words, 2d, last sentences).	
32909(c) .....	15:2004(b).	
32909(d) .....	15:2004(c), (d).	
	15:2008(e)(3)(C).	

In this section, the word “regulation” is substituted for “rule” for consistency in the revised title and because the terms are synonymous.

In subsection (a)(1) and (2), the words “apply for review” are added for clarity.

In subsection (a)(1), the text of 15:2004(a) (last sentence) is omitted because 15:2002(d) is executed and is not a part of the revised title.

In subsection (a)(2), the words “adversely affected” are substituted for “aggrieved”, and the words “regulation prescribed” are substituted for “final rule”, for consistency in the revised title and with other titles of the United States Code. The text of 15:2004(a) (4th sentence) and 2008(e)(3)(B) is omitted because 5:ch. 7 applies unless otherwise stated.

In subsection (b), the words “a regulation prescribing an amendment of a standard submitted to Congress”

are substituted for “or in the case of an amendment submitted to each House of Congress” in 15:2004(a), and the words “the Secretary of Transportation or the Administrator of the Environmental Protection Agency, whoever prescribed the regulation” are substituted for “the officer who prescribed the rule”, for clarity. The words “a record of the proceeding in which the regulation was prescribed” are substituted for “the written submissions and other materials in the proceeding upon which such rule was based” in 15:2004(a) and “the written submissions to, and transcript of, the written and oral proceedings on which the rule was based, as provided in section 2112 of title 28, United States Code” in 15:2008(e)(3) for consistency and to eliminate unnecessary words.

In subsection (c)(1), the words “on request of the petitioner” are substituted for “If the petitioner applies to the court in a proceeding under subsection (a) of this section for leave to make additional submissions”, and the words “to receive additional submissions” are substituted for “to provide additional opportunity to make such submissions”, for clarity.

In subsection (c)(2), the words “amend . . . the regulation” and “amended . . . regulation” are substituted for “modify . . . the rule” and “modified . . . rule”, respectively, for consistency in the chapter and because “regulation” is synonymous with “rule”.

In subsection (d), the words “affirming or setting aside, in whole or in part” are omitted as surplus. The words “and not in lieu of” in 15:2004(d) are omitted as surplus.

#### PUB. L. 103-429

This amends 49:32909(a)(1) to correct an erroneous cross-reference.

#### AMENDMENTS

1994—Subsec. (a)(1). Pub. L. 103-429 substituted “any of sections 32901–32904” for “section 32901–32904”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

### § 32910. Administrative

(a) **GENERAL POWERS.**—(1) In carrying out this chapter, the Secretary of Transportation or the Administrator of the Environmental Protection Agency may—

(A) inspect and copy records of any person at reasonable times;

(B) order a person to file written reports or answers to specific questions, including reports or answers under oath; and

(C) conduct hearings, administer oaths, take testimony, and subpoena witnesses and records the Secretary or Administrator considers advisable.

(2) A witness summoned under paragraph (1)(C) of this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(b) **CIVIL ACTIONS TO ENFORCE.**—A civil action to enforce a subpoena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for any judicial district in which the proceeding by the Secretary or Administrator is conducted. The court may punish a failure to obey an order of the court to comply with the subpoena or order of the Secretary or Administrator as a contempt of court.

(c) **DISCLOSURE OF INFORMATION.**—The Secretary and the Administrator each shall disclose

information obtained under this chapter (except information obtained under section 32904(c) of this title) under section 552 of title 5. However, the Secretary or Administrator may withhold information under section 552(b)(4) of title 5 only if the Secretary or Administrator decides that disclosure of the information would cause significant competitive damage. A matter referred to in section 552(b)(4) and relevant to an administrative or judicial proceeding under this chapter may be disclosed in that proceeding. A measurement or calculation under section 32904(c) of this title shall be disclosed under section 552 of title 5 without regard to section 552(b).

(d) **REGULATIONS.**—The Administrator may prescribe regulations to carry out duties of the Administrator under this chapter.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1070; Pub. L. 103-429, §6(39), Oct. 31, 1994, 108 Stat. 4382.)

#### HISTORICAL AND REVISION NOTES

##### PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32910(a) .....	15:2005(b)(1), (3).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §505(b), (d); added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 909.
32910(b) .....	15:2005(b)(2).	
32910(c) .....	15:2005(d).	
32910(d) .....	(no source).	

In subsection (a)(1), before clause (A), the words “or their duly designated agents” are omitted as surplus because of 49:322(b) and section 3 of Reorganization Plan No. 3 of 1970 (eff. Dec. 2, 1970, 84 Stat. 2089). In clause (A), the words “inspect and copy records of any person” are substituted for “require, by general or special orders, that any person . . . (B) provide . . . access to (and for the purpose of examination, the right to copy) any documentary evidence of such person” to eliminate unnecessary words. The words “which is relevant to any functions of the Secretary or the EPA Administrator under this subchapter” are omitted as covered by “In carrying out this chapter”. In clause (B), the word “order” is substituted for “require, by general or special orders”, and the words “including reports or answers under oath” are substituted for “Such reports and answers shall be made under oath or otherwise”, to eliminate unnecessary words. The words “in such form as the Secretary or EPA Administrator may prescribe” and “shall be filed with the Secretary or the EPA Administrator within such reasonable period as either may prescribe” are omitted as surplus because of subsection (d) of this section and 49:322(a). The words “relating to any function of the Secretary or the EPA Administrator under this subchapter” are omitted as surplus. In clause (C), the words “sit and act at such times and places” are omitted as being included in “conduct hearings”. The words “subpena witnesses” are substituted for “require, by subpena, the attendance and testimony of such witnesses” to eliminate unnecessary words.

In subsection (b), the words “A civil action to enforce a subpoena or order of the Secretary or Administrator under subsection (a) of this section may be brought in the district court of the United States for the judicial district in which the proceeding by the Secretary or Administrator was conducted” are substituted for 15:2005(b)(2) (1st sentence) for consistency and to eliminate unnecessary words.

In subsection (c), the words “to the public” are omitted as surplus. The words “However, the Secretary or the Administrator may withhold information” are substituted for “except that information may be withheld from disclosure” for clarity.

Subsection (d) is added for convenience because throughout the chapter the Administrator is given authority to prescribe regulations to carry out duties of the Administrator.

PUB. L. 103-429

This amends 49:32910(b) to clarify the restatement of 15:2005(b)(2) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1071).

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-429 substituted “any judicial district in which the proceeding by the Secretary or Administrator is conducted” for “the judicial district in which the proceeding by the Secretary or Administrator was conducted”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

**§ 32911. Compliance**

(a) GENERAL.—A person commits a violation if the person fails to comply with this chapter and regulations and standards prescribed and orders issued under this chapter (except sections 32902, 32903, 32908(b), 32917(b), and 32918 and regulations and standards prescribed and orders issued under those sections). The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a person has committed a violation. Any interested person may participate in a proceeding under this subsection.

(b) AUTOMOBILE MANUFACTURERS.—A manufacturer of automobiles commits a violation if the manufacturer fails to comply with an applicable average fuel economy standard under section 32902 of this title. Compliance is determined after considering credits available to the manufacturer under section 32903 of this title. If average fuel economy calculations under section 32904(c) of this title indicate that a manufacturer has violated this subsection, the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide whether a violation has been committed. The Secretary may not conduct the proceeding if further measurements of fuel economy, further calculations of average fuel economy, or other information indicates a violation has not been committed. The results of the measurements and calculations and the information shall be published in the Federal Register. Any interested person may participate in a proceeding under this subsection.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1071; Pub. L. 103-429, §6(40), Oct. 31, 1994, 108 Stat. 4382.)

Historical and Revision Notes  
PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32911(a) .....	15:2007(a)(3).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §§507(a), 508(a); added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 911; Oct. 10, 1980, Pub. L. 96-425, §6(a)(1), (c)(1), (2), 94 Stat. 1826, 1827.
	15:2008(a)(2).	

Historical and Revision Notes—Continued  
PUB. L. 103-272

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32911(b) .....	15:2007(a)(1), (2). 15:2007(b).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §507(b); added Oct. 10, 1980, Pub. L. 96-425, §6(a)(2), 94 Stat. 1826.
	15:2008(a).	

In this section, the words “commits a violation if the . . . fails” are substituted for “the following conduct is unlawful . . . the failure of any person” for clarity and consistency in the revised title.

In subsection (a), the reference to 15:2011 is omitted because that provision is not restated in this chapter. The words “The Secretary of Transportation shall conduct a proceeding, with an opportunity for a hearing on the record, to decide” are substituted for “If, on the record after opportunity for agency hearing, the Secretary determines” in 15:2008 for clarity. The words “the Secretary shall assess the penalties provided for under subsection (b) of this section” are omitted as surplus.

In subsection (b), the words “Compliance is determined after considering credits available to the manufacturer under section 32903 of this title” are substituted for 15:2007(b) to eliminate unnecessary words. The words “the Secretary shall conduct a proceeding, with an opportunity for a hearing on the record, to decide” are substituted for “the Secretary shall commence a proceeding under paragraph (2) of this subsection” in 15:2008(a)(1) and “If, on the record after opportunity for agency hearing, the Secretary determines” in 15:2008(a)(2) for clarity. The words “may not conduct” are substituted for “(unless” in 15:2008(a)(1) for clarity.

PUB. L. 103-429

This makes a conforming amendment necessary because of the restatement of 15:2011 as 49:32918 by section 6(43)(A) of the bill.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-429 substituted “, 32917(b), and 32918” for “, and 32917(b)”.

**§ 32912. Civil penalties**

(a) GENERAL PENALTY.—A person that violates section 32911(a) of this title is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation. A separate violation occurs for each day the violation continues.

(b) PENALTY FOR MANUFACTURER VIOLATIONS OF FUEL ECONOMY STANDARDS.—Except as provided in subsection (c) of this section, a manufacturer that violates a standard prescribed for a model year under section 32902 of this title is liable to the Government for a civil penalty of \$5 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(1) calculated under section 32904(a)(1)(A) or (B) of this title for automobiles to which the standard applies manufactured by the manufacturer during the model year;

(2) multiplied by the number of those automobiles; and

(3) reduced by the credits available to the manufacturer under section 32903 of this title for the model year.

(c) HIGHER PENALTY AMOUNTS.—(1)(A) The Secretary of Transportation shall prescribe by regu-

lation a higher amount for each .1 of a mile a gallon to be used in calculating a civil penalty under subsection (b) of this section, if the Secretary decides that the increase in the penalty—

(i) will result in, or substantially further, substantial energy conservation for automobiles in model years in which the increased penalty may be imposed; and

(ii) will not have a substantial deleterious impact on the economy of the United States, a State, or a region of a State.

(B) The amount prescribed under subparagraph (A) of this paragraph may not be more than \$10 for each .1 of a mile a gallon.

(C) The Secretary may make a decision under subparagraph (A)(ii) of this paragraph only when the Secretary decides that it is likely that the increase in the penalty will not—

(i) cause a significant increase in unemployment in a State or a region of a State;

(ii) adversely affect competition; or

(iii) cause a significant increase in automobile imports.

(D) A higher amount prescribed under subparagraph (A) of this paragraph is effective for the model year beginning at least 18 months after the regulation stating the higher amount becomes final.

(2) The Secretary shall publish in the Federal Register a proposed regulation under this subsection and a statement of the basis for the regulation and provide each manufacturer of automobiles a copy of the proposed regulation and the statement. The Secretary shall provide a period of at least 45 days for written public comments on the proposed regulation. The Secretary shall submit a copy of the proposed regulation to the Federal Trade Commission and request the Commission to comment on the proposed regulation within that period. After that period, the Secretary shall give interested persons and the Commission an opportunity at a public hearing to present oral information, views, and arguments and to direct questions about disputed issues of material fact to—

(A) other interested persons making oral presentations;

(B) employees and contractors of the Government that made written comments or an oral presentation or participated in the development or consideration of the proposed regulation; and

(C) experts and consultants that provided information to a person that the person includes, or refers to, in an oral presentation.

(3) The Secretary may restrict the questions of an interested person and the Commission when the Secretary decides that the questions are duplicative or not likely to result in a timely and effective resolution of the issues. A transcript shall be kept of a public hearing under this subsection. A copy of the transcript and written comments shall be available to the public at the cost of reproduction.

(4) The Secretary shall publish a regulation prescribed under this subsection in the Federal Register with the decisions required under paragraph (1) of this subsection.

(5) An officer or employee of a department, agency, or instrumentality of the Government

violates section 1905 of title 18 by disclosing, except in an in camera proceeding by the Secretary or a court, information—

(A) provided to the Secretary or the court during consideration or review of a regulation prescribed under this subsection; and

(B) decided by the Secretary to be confidential under section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796(d)).

(d) WRITTEN NOTICE REQUIREMENT.—The Secretary shall impose a penalty under this section by written notice.

(e) USE OF CIVIL PENALTIES.—For fiscal year 2008 and each fiscal year thereafter, from the total amount deposited in the general fund of the Treasury during the preceding fiscal year from fines, penalties, and other funds obtained through enforcement actions conducted pursuant to this section (including funds obtained under consent decrees), the Secretary of the Treasury, subject to the availability of appropriations, shall—

(1) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to support rulemaking under this chapter; and

(2) transfer 50 percent of such total amount to the account providing appropriations to the Secretary of Transportation for the administration of this chapter, which shall be used by the Secretary to carry out a program to make grants to manufacturers for retooling, re-equipping, or expanding existing manufacturing facilities in the United States to produce advanced technology vehicles and components.

(Pub. L. 103–272, §1(e), July 5, 1994, 108 Stat. 1072; Pub. L. 110–140, title I, §112, Dec. 19, 2007, 121 Stat. 1508.)

#### HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32912(a) .....	15:2008(b)(2).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(b)(1)–(3) (1st sentence); added Dec. 22, 1975, Pub. L. 94–163, §301, 89 Stat. 913; Oct. 10, 1980, Pub. L. 96–425, §§6(c)(1), (3), 8(f), 94 Stat. 1827, 1828, 1829.
32912(b) .....	15:2008(b)(1).	Oct. 20, 1972, Pub. L. 92–513, 86 Stat. 947, §508(d), (e)(1), (2), (4); added Nov. 9, 1978, Pub. L. 95–619, §402, 92 Stat. 3255, 3256.
32912(c)(1) ..	15:2008(d).	
32912(c)(2), (3).	15:2008(e)(1).	
32912(c)(4) ..	15:2008(e)(2).	
32912(c)(5) ..	15:2008(e)(4).	
32912(d) .....	15:2008(b)(3) (1st sentence).	

In this section, the words “whom the Secretary determines under subsection (a) of this section” are omitted as surplus.

In subsection (b), before clause (1)(A), the words “Except as provided in subsection (c) of this section” are added for clarity. The words “that violates a standard prescribed for a model year under section 32902 of this title” are substituted for “to have violated a provision of section 2007(a)(1) of this title with respect to any model year” and “to have violated section 2007(a)(2) of this title” to avoid referring, as in the source, to one provision that in turn refers to another provision. In

clause (1), the words “calculated under” are substituted for “established under” for clarity. The reference to section 32904(a)(1)(A), which is a reference to the provision under which average fuel economy for nonpassenger automobiles is calculated, is added for clarity. The reference to section 32904(a)(1)(B), which is a reference to the provision under which average fuel economy for passenger automobiles is calculated, is substituted for the reference in the source to 15:2002(a) and (c), which is a reference to the provision under which the average fuel economy standard for those automobiles is established, for clarity. The words “in which the violation occurs” are omitted as surplus.

In subsection (c)(1)(A), before clause (i), the words “shall prescribe by regulation” are substituted for “shall, by rule . . . substitute” for consistency in the revised title and because “rule” and “regulation” are synonymous. The words “in accordance with the provisions of this subsection and subsection (e)” are omitted as surplus. The words “be less than \$5.00” are omitted as surplus because under the subsection the Secretary may only raise the amount imposed to \$10, or a \$5 increase. The words “in the absence of such rule” are omitted as surplus. The words “increase in the penalty” are substituted for “additional amount of the civil penalty” for clarity. In clause (ii), the words “subject to subparagraph (B)” are omitted as surplus.

In subsection (c)(1)(C), the words “the later of” and the text of 15:2008(d)(3)(A) are omitted as obsolete.

In subsection (c)(2), before clause (A), the words “After the Secretary of Transportation develops a proposed rule pursuant to subsection (d) of this section” are omitted as surplus. In clause (B), the words “written comments or an oral presentation” are substituted for “written or oral presentations” for consistency in the section. The text of 15:2008(e)(1)(B) (last sentence) and (C) is omitted as surplus because of 5:556(d).

In subsection (c)(5), before clause (A), the words “department, agency, or instrumentality” are substituted for “department or agency” for consistency in the revised title and with other titles of the United States Code.

#### AMENDMENTS

2007—Subsec. (e). Pub. L. 110-140 added subsec. (e).

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

### § 32913. Compromising and remitting civil penalties

(a) GENERAL AUTHORITY AND LIMITATIONS.—The Secretary of Transportation may compromise or remit the amount of a civil penalty imposed under section 32912(a) or (b) of this title. However, the amount of a penalty imposed under section 32912(b) may be compromised or remitted only to the extent—

(1) necessary to prevent the insolvency or bankruptcy of the manufacturer of automobiles;

(2) the manufacturer shows that the violation was caused by an act of God, a strike, or a fire; or

(3) the Federal Trade Commission certifies under subsection (b)(1) of this section that a reduction in the penalty is necessary to prevent a substantial lessening of competition.

(b) CERTIFICATION BY COMMISSION.—(1) A manufacturer liable for a civil penalty under section 32912(b) of this title may apply to the Commission for a certification that a reduction in the

penalty is necessary to prevent a substantial lessening of competition in the segment of the motor vehicle industry subject to the standard that was violated. The Commission shall make the certification when it finds that reduction is necessary to prevent the lessening. The Commission shall state in the certification the maximum amount by which the penalty may be reduced.

(2) An application under this subsection must be made not later than 30 days after the Secretary decides that the manufacturer has violated section 32911(b) of this title. To the maximum extent practicable, the Commission shall make a decision on an application by the 90th day after the application is filed. A proceeding under this subsection may not delay the manufacturer's liability for the penalty for more than 90 days after the application is filed.

(3) When a civil penalty is collected in a civil action under this chapter before a decision of the Commission under this subsection is final, the payment shall be paid to the court in which the action was brought. The court shall deposit the payment in the general fund of the Treasury on the 90th day after the decision of the Commission becomes final. When the court is holding payment of a penalty reduced under subsection (a)(3) of this section, the Secretary shall direct the court to remit the appropriate amount of the penalty to the manufacturer.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1073; Pub. L. 103-429, §6(41), Oct. 31, 1994, 108 Stat. 4382; Pub. L. 104-287, §6(d)(1)(A), Oct. 11, 1996, 110 Stat. 3399.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32913(a) .....	15:2008(b)(3) (2d sentence).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §508(b)(3) (2d sentence), (4), (5); added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 913; Oct. 10, 1980, Pub. L. 96-425, §6(c)(1), 94 Stat. 1827.
32913(b) .....	15:2008(b)(4), (5).	

In subsection (a), before clause (1), the words “compromise or remit” are substituted for “compromise, modify, or remit, with or without conditions” for consistency in the revised title. The words “against any person” are omitted as surplus. The reference to section 32912(b) (a restatement of 15:2008(b)(1)) is used rather than a reference to 32911(b) (a restatement of 15:2007(a)(1) or (2)) to avoid referring, as in the source, to one provision that in turn refers to another provision. In clause (3), the word “reduction” is substituted for “modification” for clarity. The words “as determined under paragraph (4)” are omitted as surplus.

In subsection (b)(1), the words “the standard that was violated” are substituted for “the standard with respect to which such penalty was assessed”, and the words “The Commission shall make the certification when it finds that reduction” are substituted for “If the manufacturer shows and the Federal Trade Commission determines that modification of the civil penalty for which such manufacturer is otherwise liable . . . the Commission shall so certify”, to eliminate unnecessary words.

In subsection (b)(3), the words “When a civil penalty is collected in a civil action under this chapter” are substituted for “but any payment made” for clarity. The words “action was brought” are substituted for



“the penalty is collected” for consistency. The words “and shall (except as otherwise provided in paragraph (5)), be held by such court” are omitted as surplus. The words “When the court is holding payment of a penalty reduced under subsection (a)(3) of this section” are substituted for “Whenever a civil penalty has been assessed and collected from a manufacturer under this section, and is being held by a court in accordance with paragraph (4), and the Secretary subsequently determines to modify such civil penalty pursuant to paragraph (3)(C)” to eliminate unnecessary words.

PUB. L. 103-429

This amends 49:32913(b)(1) to clarify the restatement of 15:2008(b)(4) and (5) by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 1073).

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-287 made technical amendment to directory language of Pub. L. 103-429, § 6(41). See 1994 Amendment notes below.

1994—Subsec. (b). Pub. L. 103-429, § 6(41)(A), as amended by Pub. L. 104-287, substituted “Certification” for “Penalty Reduction” in heading.

Subsec. (b)(1). Pub. L. 103-429, § 6(41)(B), as amended by Pub. L. 104-287, substituted “a reduction in the penalty is necessary” for “the penalty should be reduced”.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(d) of Pub. L. 104-287 provided that the amendment made by that section is effective Oct. 31, 1994.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

### § 32914. Collecting civil penalties

(a) CIVIL ACTIONS.—If a person does not pay a civil penalty after it becomes a final order of the Secretary of Transportation or a judgment of a court of appeals of the United States for a circuit, the Attorney General shall bring a civil action in an appropriate district court of the United States to collect the penalty. The validity and appropriateness of the final order imposing the penalty is not reviewable in the action.

(b) PRIORITY OF CLAIMS.—A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer for a civil penalty under section 32912(b) of this title when the creditor’s claim is for credit extended before a final judgment (without regard to section 32913(b)(1) and (2) of this title) in an action to collect under subsection (a) of this section.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1074.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32914(a) .....	15:2008(b)(3) (last sentence), (c)(2).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, § 508(b)(3) (last sentence), (6), (c)(2); added Dec. 22, 1975, Pub. L. 94-163, § 301, 89 Stat. 913, 914.
32914(b) .....	15:2008(b)(6).	

In subsection (a), the text of 15:2008(b)(3) (last sentence) is omitted as surplus because of 28:516 and 2461(a). The words “an assessment of” and “and unappealable” are omitted as surplus. The words “of the

Secretary of Transportation” are added for clarity. The words “for a circuit” are added for consistency. The words “in favor of the Secretary” are omitted as surplus. The words “shall bring a civil action . . . to collect the penalty” are substituted for “shall recover the amount for which the manufacturer is liable” for consistency.

In subsection (b), the words “A claim of a creditor against a bankrupt or insolvent manufacturer of automobiles has priority over a claim of the United States Government against the manufacturer” are substituted for “A claim of the United States . . . against a manufacturer . . . shall, in the case of the bankruptcy or insolvency of such manufacturer, be subordinate to any claim of a creditor of such manufacturer” for clarity and to eliminate unnecessary words. The words “the date on which” are omitted as surplus.

### § 32915. Appealing civil penalties

Any interested person may appeal a decision of the Secretary of Transportation to impose a civil penalty under section 32912(a) or (b) of this title, or of the Federal Trade Commission under section 32913(b)(1) of this title, in the United States Court of Appeals for the District of Columbia Circuit or in the court of appeals of the United States for the circuit in which the person resides or has its principal place of business. A person appealing a decision must file a notice of appeal with the court not later than 30 days after the decision and, at the same time, send a copy of the notice by certified mail to the Secretary or the Commission. The Secretary or the Commission promptly shall file with the court a certified copy of the record of the proceeding in which the decision was made.

(Pub. L. 103-272, § 1(e), July 5, 1994, 108 Stat. 1074.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
32915 .....	15:2008(c)(1).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, § 508(c)(1); added Dec. 22, 1975, Pub. L. 94-163, § 301, 89 Stat. 914.

The words “as the case may be” are omitted as surplus. The text of 15:2008(c)(1) (last sentence) is omitted as surplus because 5:ch. 7 applies unless otherwise stated.

### § 32916. Reports to Congress

(a) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary of Transportation shall submit to each House of Congress, and publish in the Federal Register, a report on the review by the Secretary of average fuel economy standards prescribed under this chapter.

(b) JOINT EXAMINATIONS AFTER GRANTING EXEMPTIONS.—(1) After an exemption has been granted under section 32904(b)(6)<sup>1</sup> of this title, the Secretaries of Transportation and Labor shall conduct annually a joint examination of the extent to which section 32904(b)(6)—<sup>1</sup>

(A) achieves the purposes of this chapter;

(B) improves fuel efficiency (thereby facilitating conservation of petroleum and reducing petroleum imports);

(C) has promoted employment in the United States related to automobile manufacturing;

<sup>1</sup> See References in Text note below.

(D) has not caused unreasonable harm to the automobile manufacturing sector in the United States; and

(E) has permitted manufacturers that have assembled passenger automobiles deemed to be manufactured domestically under section 32904(b)(2) of this title thereafter to assemble in the United States passenger automobiles of the same model that have less than 75 percent of their value added in the United States or Canada, together with the reasons.

(2) The Secretary of Transportation shall include the results of the examination under paragraph (1) of this subsection in each report submitted under subsection (a) of this section more than 180 days after an exemption has been granted under section 32904(b)(6) of this title, or submit the results of the examination directly to Congress before the report is submitted when circumstances warrant.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1074; Pub. L. 103-429, §6(42), Oct. 31, 1994, 108 Stat. 4382.)

#### HISTORICAL AND REVISION NOTES PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32916(a) .....	15:2002(a)(2).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §502(a)(2); added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 902.
32916(b)(1) ..	15:2012(c)(1).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §512(c); added Oct. 10, 1980, Pub. L. 96-425, §4(a)(2), 94 Stat. 1823.
32916(b)(2) ..	15:2012(c)(2).	

In subsection (a), the words “a report on the review by the Secretary” are substituted for “a review” for clarity. The words “beginning in 1977” and the text of 15:2002(a) (2d, last sentences) are omitted as executed.

In subsection (b)(1), before clause (A), reference to section 32904(b)(4) the 2d time it appears is substituted for “the amendment made to section 2003(b) of this title by section 4(a)(1) of the Automobile Fuel Efficiency Act of 1980” for clarity and to eliminate unnecessary words. Clause (B) is substituted for “achieves the purposes of that Act” for clarity.

In subsection (b)(2), the reference to “subsection (a) of this section” is restated to refer to 15:2002(a) rather than 15:2012(a) to reflect the apparent intent of Congress. Although 15:2012(c)(2) refers to an annual report under 15:2012(a), that provision does not provide for an annual report.

#### PUB. L. 103-429

This makes conforming amendments necessary because of the restatement of 15:2003(b)(2)(G) as 49:32904(b)(3) by section 6(36)(B) of the bill.

#### REFERENCES IN TEXT

Paragraph (6) of section 32904(b) of this title, referred to in subsec. (b), was repealed by Pub. L. 110-140, title I, §113(a), Dec. 19, 2007, 121 Stat. 1508.

#### AMENDMENTS

1994—Subsec. (b). Pub. L. 103-429, in par. (1), introductory provisions, substituted “32904(b)(6)” for “32904(b)(4)” in two places, in par. (1)(E), substituted “32904(b)(2)” for “32904(b)(1)(A)”, and in par. (2), substituted “32904(b)(6)” for “32904(b)(4)”.

### § 32917. Standards for executive agency automobiles

(a) DEFINITION.—In this section, “executive agency” has the same meaning given that term in section 105 of title 5.

(b) FLEET AVERAGE FUEL ECONOMY.—(1) The President shall prescribe regulations that require passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year to achieve a fleet average fuel economy (determined under paragraph (2) of this subsection) for that year of at least the greater of—

(A) 18 miles a gallon; or

(B) the applicable average fuel economy standard under section 32902(b) or (c) of this title for the model year that includes January 1 of that fiscal year.

(2) Fleet average fuel economy is—

(A) the total number of passenger automobiles leased for at least 60 consecutive days or bought by executive agencies in a fiscal year (except automobiles designed for combat-related missions, law enforcement work, or emergency rescue work); divided by

(B) the sum of the fractions obtained by dividing the number of automobiles of each model leased or bought by the fuel economy of that model.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1075.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32917(a) .....	15:2010(b)(2).	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §510; added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 915.
32917(b) .....	15:2010(a), (b)(1), (3).	

In subsection (b)(1), before clause (A), the words “within 120 days after December 22, 1975” and “which begins after December 22, 1975” are omitted as executed. The words “(determined under paragraph (2) of this subsection)” are added for clarity.

In subsection (b)(2), before clause (A), the words “As used in this section: (1) The term” are omitted as surplus. In clause (A), the words “to which this section applies” and “for the Armed Forces” are omitted as surplus. In clause (B), the words “the sum of the fractions obtained” are substituted for “a sum of terms, each term of which is a fraction created” to eliminate unnecessary words.

### § 32918. Retrofit devices

(a) DEFINITION.—In this section, the term “retrofit device” means any component, equipment, or other device—

(1) that is designed to be installed in or on an automobile (as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other device); and

(2) that any manufacturer, dealer, or distributor of the device represents will provide higher fuel economy than would have resulted with the automobile as originally equipped,

as determined under regulations of the Administrator of the Environmental Protection Agency. The term also includes a fuel additive for use in an automobile.

(b) **EXAMINATION OF FUEL ECONOMY REPRESENTATIONS.**—The Federal Trade Commission shall establish a program for systematically examining fuel economy representations made with respect to retrofit devices. Whenever the Commission has reason to believe that any representation may be inaccurate, the Commission shall request the Administrator to evaluate, in accordance with subsection (c) of this section, the retrofit device with respect to which the representation was made.

(c) **EVALUATION OF RETROFIT DEVICES.**—(1) On application of any manufacturer of a retrofit device (or prototype of a retrofit device), on request of the Commission under subsection (b) of this section, or on the motion of the Administrator, the Administrator shall evaluate, in accordance with regulations prescribed under subsection (e) of this section, any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations, if any, made with respect to the retrofit device are accurate.

(2) If under paragraph (1) of this subsection, the Administrator tests, or causes to be tested, any retrofit device on the application of a manufacturer of the device, the manufacturer shall supply, at the manufacturer's expense, one or more samples of the device to the Administrator and shall be liable for the costs of testing incurred by the Administrator. The procedures for testing retrofit devices so supplied may include a requirement for preliminary testing by a qualified independent testing laboratory, at the expense of the manufacturer of the device.

(d) **RESULTS OF TESTS AND PUBLICATION IN FEDERAL REGISTER.**—(1) The Administrator shall publish in the Federal Register a summary of the results of all tests conducted under this section, together with the Administrator's conclusions as to—

(A) the effect of any retrofit device on fuel economy;

(B) the effect of the device on emissions of air pollutants; and

(C) any other information the Administrator determines to be relevant in evaluating the device.

(2) The summary and conclusions shall also be submitted to the Secretary of Transportation and the Commission.

(e) **REGULATIONS ESTABLISHING TESTS AND PROCEDURES FOR EVALUATION OF RETROFIT DEVICES.**—The Administrator shall prescribe regulations establishing—

(1) testing and other procedures for evaluating the extent to which retrofit devices affect fuel economy and emissions of air pollutants; and

(2) criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices.

(Pub. L. 103-429, §6(43)(B), Oct. 31, 1994, 108 Stat. 4382.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32918 .....	15:2011.	Oct. 20, 1972, Pub. L. 92-513, §511, as added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 915, and amended July 5, 1994, Pub. L. 103-272, §4(c), 108 Stat. 1361.

This restates 15:2011 to include 15:2011 in the scope of the codification enacted by section 1 of the Act of July 5, 1994 (Public Law 103-272, 108 Stat. 745).

In subsection (a), the words “Administrator of the Environmental Protection Agency” are substituted for “Administrator” for clarity and to conform to the style of the codification which is to state the complete title the first time a descriptive title is used, and thereafter, to use a shorter title unless the context requires the complete title to be used.

In subsections (c) and (e), the word “regulations” is substituted for “rules” and “by rule” for consistency with the restatement of title 49.

In subsection (e)(1), the words “The Administrator shall prescribe regulations establishing” are substituted for “Within 180 days after December 22, 1975, the Administrator shall, by rule, establish” to eliminate executed words.

#### PRIOR PROVISIONS

A prior section 32918 was renumbered section 32919 of this title.

#### § 32919. Preemption

(a) **GENERAL.**—When an average fuel economy standard prescribed under this chapter is in effect, a State or a political subdivision of a State may not adopt or enforce a law or regulation related to fuel economy standards or average fuel economy standards for automobiles covered by an average fuel economy standard under this chapter.

(b) **REQUIREMENTS MUST BE IDENTICAL.**—When a requirement under section 32908 of this title is in effect, a State or a political subdivision of a State may adopt or enforce a law or regulation on disclosure of fuel economy or fuel operating costs for an automobile covered by section 32908 only if the law or regulation is identical to that requirement.

(c) **STATE AND POLITICAL SUBDIVISION AUTOMOBILES.**—A State or a political subdivision of a State may prescribe requirements for fuel economy for automobiles obtained for its own use.

(Pub. L. 103-272, §1(e), July 5, 1994, 108 Stat. 1075, §32918; renumbered §32919, Pub. L. 103-429, §6(43)(A), Oct. 31, 1994, 108 Stat. 4382.)

#### HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
32918 .....	15:2009.	Oct. 20, 1972, Pub. L. 92-513, 86 Stat. 947, §509; added Dec. 22, 1975, Pub. L. 94-163, §301, 89 Stat. 914.

In subsection (a), the word “prescribed” is substituted for “established” for consistency.

#### AMENDMENTS

1994—Pub. L. 103-429 renumbered section 32918 of this title as this section.

#### CHAPTER 331—THEFT PREVENTION

Sec.  
33101. Definitions.